

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

LAUREL PARK COMMUNITY, LLC, a Washington
limited liability company; TUMWATER ESTATES
INVESTORS, a California limited partnership;
VELKOMMEN MOBILE PARK, LLC, a Washington
limited liability company; and MANUFACTURED
HOUSING COMMUNITIES OF WASHINGTON, a
Washington non-profit corporation,

Plaintiffs,

v.

CITY OF TUMWATER, a municipal corporation,

Defendant.

No. C09-05312BHS

DECLARATION OF
WALTER H. OLSEN, JR. IN
SUPPORT OF PLAINTIFFS'
RESPONSE OPPOSING
DEFENDANT'S MOTION FOR
SUMMARY JUDGMENT

Note on Motion
Calendar: April 9, 2010

(Oral Argument Requested)

Walter H. Olsen, Jr. declares as follows:

1. I am one of the attorneys representing Laurel Park Community, LLC, Tumwater
Estates Investors, and Manufactured Housing Communities of Washington in the instant case. I
am over the age of eighteen, competent to testify, and familiar with the facts herein based upon
personal knowledge.

2. Attached to my declaration as Exhibit A is a true and correct copy of the
Mobile/Manufactured Housing Relocation Assistance Program Update, March 2010, prepared by
Washington's Department of Commerce. I downloaded this update from

Declaration of Walter H. Olsen, Jr. - 1

Talmadge/Fitzpatrick
18010 Southcenter Parkway
Tukwila, Washington 98188-4630
(206) 574-6661 (206) 575-1397 Fax

1 <http://www.commerce.wa.gov/DesktopModules/CTEDPublications/CTEDPublicationsView.aspx?tabID=0&ItemID=7139&Mid=870&wversion=Staging> on April 1, 2010.

3 3. Attached to my declaration as Exhibit B is a true and correct copy of the Closing
4 Mobile/Manufactured Housing Communities, 2007-Current, prepared by Washington's
5 Department of Commerce. I downloaded this report from
6 <http://www.commerce.wa.gov/DesktopModules/CTEDPublications/CTEDPublicationsView.aspx?tabID=0&ItemID=4411&Mid=870&wversion=Staging> on April 1, 2010.

9 4. Attached to my declaration as Exhibit C is a true and correct copy of a portion of
10 a Data Supplement Report to the Legislature January 2006, which then confirmed that there was
11 over 1800 mobile home parks in Washington. I downloaded this report from
12 http://www.commerce.wa.gov/CTED/documents/ID_2704_Publications.pdf on April 4, 2010.

13 5. Attached to my declaration as Exhibit D are true and correct copies of excerpts
14 from the written transcript for the deposition of William Schmicker which I caused my
15 colleague, attorney Tony Branson, to defend on February 4, 2010.

16 6. Attached to my declaration as Exhibit E are true and correct copies of excerpts,
17 and Exhibit 4, from the written transcript for the deposition of Bob Eichler which I defended on
18 February 15, 2010.

19 7. Attached to my declaration as Exhibit F are true and correct copies of excerpts
20 from the written transcript for the deposition of James Andersen which I defended on January 29,
21 2010.

22 8. Attached to my declaration as Exhibit G are true and correct copies of excerpts
23 from the written transcript for the deposition of Michael Matlock which I took on February 9,
24 2010.

25 Declaration of Walter H. Olsen, Jr. - 2

Talmadge/Fitzpatrick
18010 Southcenter Parkway
Tukwila, Washington 98188-4630
(206) 574-6661 (206) 575-1397 Fax

9. Attached to my declaration as Exhibit H are true and correct copies of excerpts from the written transcript for the deposition of Stephen Shapiro which I took on February 8, 2010.

10. Attached to my declaration as Exhibit I is a true and correct copy of p. 26 from Stephen Shapiro's Summary Appraisal Report of Velkommen MHP, dated January 6, 2010.

I declare under penalty of perjury under the laws of the State of Washington and the United States that the foregoing is true and correct.

Executed at Yelm, Washington, this 4th day of April, 2010.

Walter H. Olsen, Jr.

The Hon. Benjamin Settle

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

LAUREL PARK COMMUNITY, LLC, a
Washington limited liability company;
TUMWATER ESTATES INVESTORS, a
California limited partnership; VELKOMMEN
MOBILE HOME PARK, LLC, a Washington
limited liability company; and
MANUFACTURED HOUSING
COMMUNITIES OF WASHINGTON, a
Washington non-profit corporation,

Plaintiffs,

vs.

CITY OF TUMWATER, a municipal
corporation,

Defendant.

NO. C09-5312 BHS

GR 17 DECLARATION OF
JANICE L. MUNSON

JANICE L. MUNSON declares:

I have examined the *Declaration of Walter H. Olsen, Jr. in Support of Plaintiffs'*
Response Opposing Defendant's Motion for Summary Judgment to which this declaration is
attached, and have determined that it consists of five (5) pages, including this declaration, and
that said document is complete and legible. The attached document was received by me via

GR 17 DECLARATION OF JANICE L. MUNSON - 1
C09-5312 BHS

OLSEN LAW FIRM PLLC
205 S. Meridian
Puyallup, Washington 98371
PH: 253.200.2288
FAX: 253.200.2289

1 facsimile at 253.200.2289 (formerly 253.813.8133).

2 I DECLARE UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE
3 STATE OF WASHINGTON THAT THE FOREGOING STATEMENT(S) ARE
4 TRUE AND CORRECT.

5 DATED this 5th day of April, 2010, at Kent, Washington.

6 Janice L. Munson

7 Janice L. Munson

8 OLSEN LAW FIRM PLLC

9 205 S. Meridian

10 Puyallup, WA 98371

11 Phone: 253.200.2288

12 Fax: 253.200.2289

EXHIBIT A



Department of Commerce

Innovation is in our nature.

Mobile/Manufactured Housing Relocation Assistance Program Update March 2010

- 16 communities closed in 2006, impacting 715 households.
- 18 communities closed in 2007, impacting 534 households.
- 15 communities closed in 2008, impacting 553 households.
- 5 communities gave notice of 2009 closure date, impacting 137 households.
- 2 communities gave notice of 2010 closure date, impacting 67 households.
- 7 communities are listed for sale, per RCW 59.20.300, Manufactured/mobile home communities – Notice of sale.
- Park closure rates fluctuated between 1989 and 2010.
 - Average park closures 1989 – 2002: 5.8 per year
 - Average park closures 2003 – 2008: 14 per year
 - Average park closures 2009 – 2010: 3.5 per year
- Relocation Assistance is funded by a \$100 fee paid by homeowners each time a manufactured home is purchased in a mobile home park/manufactured housing community. The fee is paid for homes over one year old and valued at \$5,000 or more.
- 24 households are on the list for relocation assistance, totaling \$146,439.61 in approved reimbursement requests. It took approximately 17 months to establish the current wait list.
- Length of time for reimbursement to households on the wait list at current distribution rate: 14 months.
- 2009 average reimbursements: Single section homes \$6,234.11; multi-section homes \$6,538.85; combined average \$6,984.49. Single section homes represented 67% of reimbursements; multi-section homes 33%. 42% of reimbursements represent homes demolished.
- By law, the maximum reimbursements are: single section homes \$7,500; multi section homes \$12,000.



Department of Commerce

Innovation is in our nature.

Closing Mobile/Manufactured Housing Communities 2007 - Current

#	Park Name	Street Address	City	County	Closure Date	Spaces
1	Burnt Bridge Village	320 NE Newhouse Rd	Vancouver	Clark	01/21/07	8
2	Columbia Crest (Timm's TC)	555 W Jewett Blvd	White Salmon	Klickitat	04/01/07	30
3	Evergreen Estates	18626 Hwy 99	Lynnwood	Snohomish	05/01/07	28
4	Goodrich	10009 S Lake Stevens Rd	Everett	Snohomish	05/01/07	9
5	Valley View Manor	12033 Woodinville Dr	Bothell	King	05/01/07	6
6	McMillan Village	14210 125th St Ct E	Puyallup	Pierce	05/15/07	41
7	Windrose Villa	12418 Pacific Hwy	Long Beach	Pacific	05/28/07	1
8	Sunrise Manor	217 103rd St Ct E	Bonney Lake	Pierce	06/01/07	93
9	Holly Vista Manor	9220 Holly Dr	Everett	Snohomish	06/15/07	40
10	Harbor MHP	111 S Shore Diamond Lake Rd	Newport	Pend Oreille	06/31/07	10
11	Cascade Green	7712 203rd Ct E	Spanaway	Pierce	07/01/07	45
12	Terry Acres	14424 NE 99th St	Vancouver	Clark	07/31/07	5
13	Bill & Lil's Senior Estates	7714 W Tapps Hwy E	Bonney Lake	Pierce	09/01/07	9
14	Homewood	16508 Alderwood Mall Parkway	Lynnwood	Snohomish	09/15/07	29
15	Ninth Street	201 E Ninth Street	Wenatchee	Chelan	09/29/07	98
16	Islander	201 Madrona Way NE	Bainbridge Isl	Kitsap	10/01/07	11
17	Halo	1011 146th St SE	Mill Creek	Snohomish	10/15/07	25
18	Mary Jo MHP	11111 Steele St	Tacoma	Pierce	11/30/07	46
						534
1	Madrona Park, LLC	1037 W Kamilche Lane	Shelton	Mason	2/1/2008	10
2	Overland MH & Trailer Park	1210 N 152nd St	Shoreline	King	2/20/2008	37
3	Carriage Court MHP	2911 South 96th St	Lakewood	Pierce	3/30/2008	40
4	Manor Heights MHP	4015 164th St SW	Lynnwood	Snohomish	4/30/2008	43
5	River City Trailer Park	636 California Ave	Longview	Cowlitz	5/1/2008	166
6	Baker Creek MHP	341 Telegraph Road	Bellingham	Whatcom	6/1/2008	22
7	Myers' Mobile Home Park	707 West First St	Cheney	Spokane	6/30/2008	44
8	Olympic Highway MHP	3710 Olympic Hwy	Aberdeen	Grays Harbor	7/1/2008	8
9	Picnic Pines MHP	9212 So Silverlake Road	Medical Lake	Spokane	7/31/2008	49
10	Riverside Drive		Sumner	Pierce	ASAP - H&S	31
11	W.S. Wright, LLC	1711 - 1749 Fairview Ave	Bridgeport	Douglas	8/31/2008	5
12	Penny Lane MHC	314 Avenue J	Snohomish	Snohomish	9/13/2008	22
13	Sunny Point Resort Park	1408 Gulf Road	Point Roberts	Whatcom	10/1/2008	16
14	Whispering Firs	12354 Silverdale Way NW	Silverdale	Kitsap	10/1/2008	32
15	Jensen Trailer Court	937 N 97th St	Seattle	King	10/9/2008	28
						553
1	Country Air MHP	17102 Meridian Avenue East	Puyallup	Pierce	2/28/2009	70
2	Perch Point Resort	5943 Road J SE	Moses Lake	Grant	3/31/2009	18
3	Whispering Firs Meadow Park	220th Street Court E.	Graham	Pierce	6/1/2009	7
4	Westward Mobile Home Park	9685 Martin Luther King Jr. Way	Seattle	King	6/18/2009	33
5	Cooke Mountain Trailer Court	4 Old Kettle Falls Road	Republic	Ferry	7/23/2009	9
6	Mountain View Trailer Park	Harrison Avenue, Centralia	Centralia	Lewis	5/1/2010	24
7	Willows Trailer Park	5 East Columbia Dr	Kennewick	Benton	5/1/2010	43
						204
Updated 3/3/2010						

EXHIBIT C



STATE OF WASHINGTON
DEPARTMENT OF COMMUNITY,
TRADE AND ECONOMIC DEVELOPMENT

Office of Manufactured Housing

ESHB 1640: Manufactured/Mobile Home Landlord-Tenant Disputes

DATA SUPPLEMENT

May 13 through December 31, 2005

Report to the Legislature
January 2006

Stephen H. Buxbaum
Assistant Director for Housing

Teri Ramsauer
Manager, Office of Manufactured Housing

Amy Leneker
Project Manager, Office of Manufactured Housing

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 A. Park Lists

 a. Registered Parks

 b. No Response Parks

 B. Actions Taken on Each Complaint

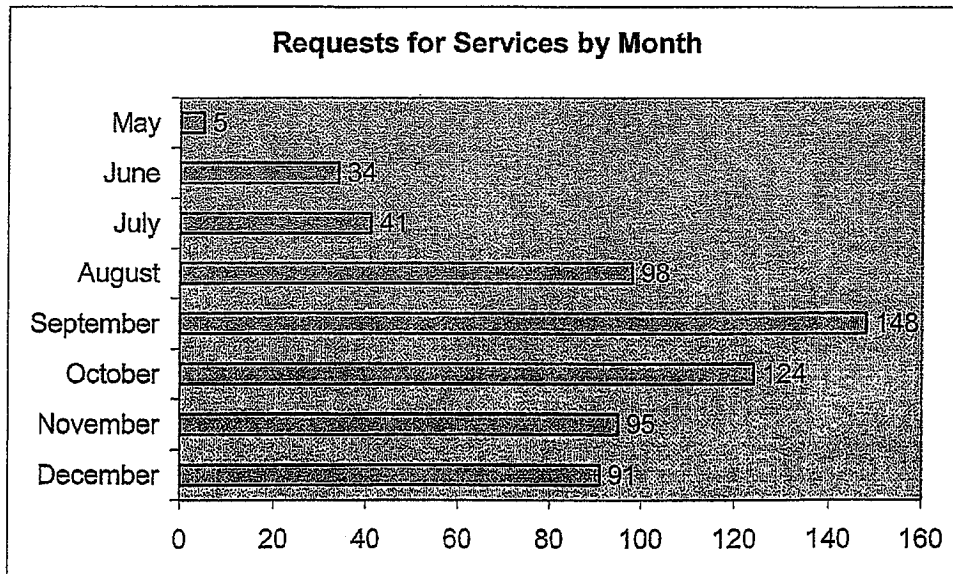
I. EXECUTIVE SUMMARY

ESHB 1640 directed the Department of Community, Trade and Economic Development (CTED) to collect and submit data on complaints and outcomes of conflict resolution efforts from May 13, 2005 through December 31, 2005. The department submitted a report in December of data collected through November 30. This supplement contains data collected during the entire reporting period and fulfills the reporting requirement.

This supplement includes the following data for May 13 – December 31, 2005:

- statistics about manufactured housing communities (also known as parks)
- number of parks that have registered with CTED
- number of residents and owners notified
- number of requests for service received
- outcome of investigations

Prior to ESHB 1640, the office received an average of 58 requests for service per month. In December, the Office of Manufactured Housing (OMH) received 91 requests for service with a landlord-tenant complaint. The department sent direct notification to over 25,000 residents and also utilized websites, newspapers and newsletters, and radio announcements to ensure that notice was given to each park owner and park resident.

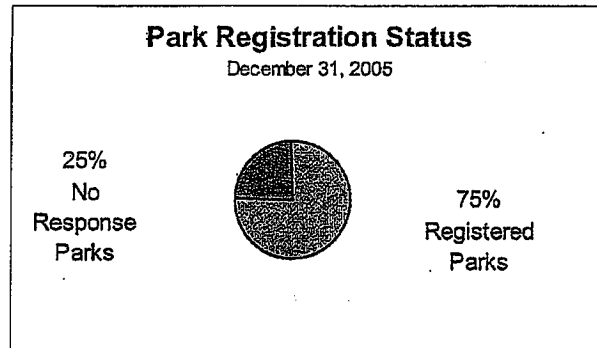


During the month of December, 191 parks registered, resulting in a total of 1,366 registered parks (75 percent). Park registration fees generated \$309,765 in revenue (\$5 per space multiplied by 61,953 spaces). Registered parks range in size from two to 408 spaces with an average of 45 spaces per park.

II. DATA

A. PARK LIST AND REGISTRATION

The Department was directed to compile the most accurate list possible of all manufactured housing communities in the state, the names and addresses of the owners of those communities, and the number of spaces subject to chapter 59.20 RCW located in each manufactured housing community. As of December 31, a total of 1,366 parks (75 percent) had registered. Park registration fees generated \$309,765 in revenue (\$5 per space times 61,953 spaces). Registered parks range in size from two to 408 spaces with an average of 45 spaces per park.



Park List Data as of December 31, 2005

Number of parks on initial park list (2,400 with complete addresses)	2,855
Number of parks on current list (presumed to meet definition of 59.20 RCW)	1,829
Number of initial notifications returned (445 returned; new addresses obtained and second mailing attempt for 39)	356
Number of parks removed from park list (duplicate listing, park was closed, not a park as defined by 59.20 RCW)	670

Registration Data as of December 31, 2005

Number of parks on current list (presumed to meet definition of 59.20 RCW)	1,829
Number of parks registered	1,366
Percentage of parks registered (1,175 of 2,113)	75%
Number of spaces registered	61,953
Average spaces per registered park	45
Amount received in registration fees (\$5 per space)	\$309,765

Number of Parks by County
As of December 31, 2005

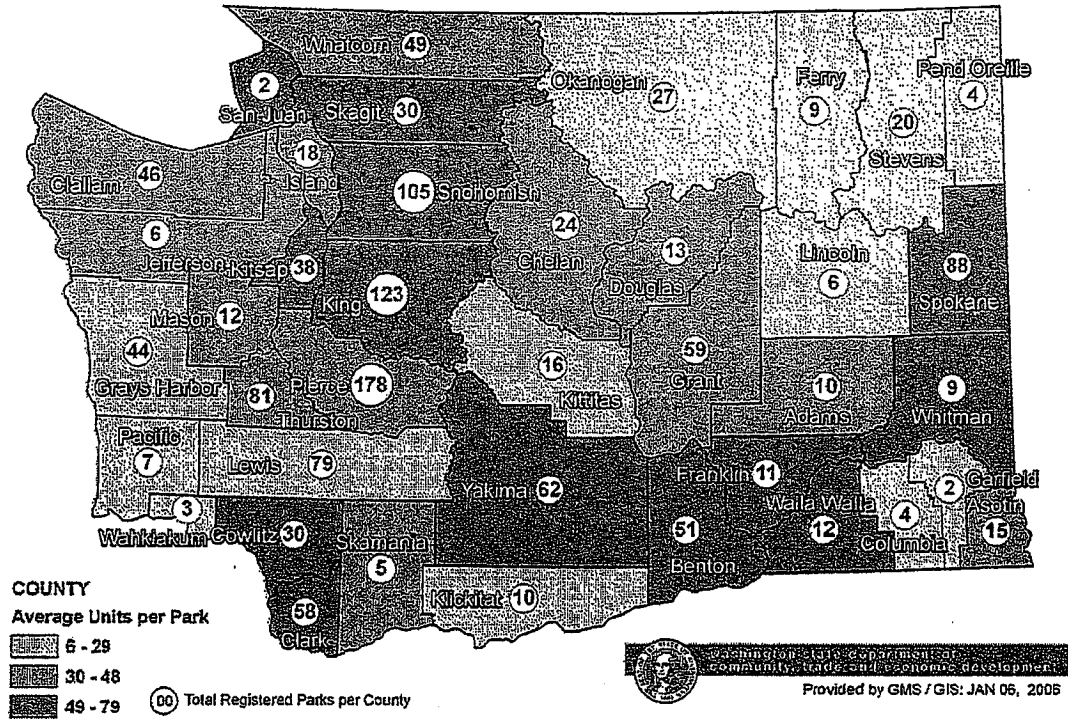
County	Parks Registered	Number of Spaces	Parks No Response	Total Parks
ADAMS	10	476	1	11
ASOTIN	15	465	3	18
BENTON	54	3098	6	57
CHELAN	24	801	8	32
CLALLAM	46	1429	7	53
CLARK	58	3788	16	74
COLUMBIA	4	85	2	6
COWLITZ	30	1562	11	41
DOUGLAS	13	543	8	21
FERRY	9	132	1	10
FRANKLIN	11	721	5	16
GARFIELD	2	12		2
GRANT	59	1912	15	74
GRAYS HARBOR	44	1281	12	56
ISLAND	18	727	8	26
JEFFERSON	6	214	5	11
KING	123	9747	44	167
KITSAP	38	2044	9	47
KITITAS	16	385	7	23
KLICKITAT	10	151	3	13
LEWIS	79	1196	31	110
LINCOLN	6	71	2	8
MASON	12	361	6	18
OKANOGAN	27	486	15	42
PACIFIC	7	77	4	11
PEND OREILLE	4	47	3	7
PIERCE	178	7560	53	231
SAN JUAN	2	144		2
SKAGIT	30	1483	11	41
SKAMANIA	5	161	4	9
SNOHOMISH	105	5858	28	133
SPOKANE	88	4298	39	127
STEVENS	20	428	10	30
THURSTON	81	3449	31	112
WAHKIAKUM	3	87		3
WALLA WALLA	12	922		12
WHATCOM	49	1709	26	75
WHITMAN	9	501	4	13
YAKIMA	62	3542	25	87
TOTALS	1,366	61,953	463	1,829

Registered Parks by County
As of December 31, 2005

County	Parks Registered	Number of Spaces	Average Number of Spaces per Park
ADAMS	10	476	48
ASOTIN	15	465	31
BENTON	51	3098	61
CHELAN	24	801	33
CLALLAM	46	1429	31
CLARK	58	3788	65
COLUMBIA	4	85	21
COWLITZ	30	1562	52
DOUGLAS	13	543	42
FERRY	9	132	15
FRANKLIN	11	721	66
GARFIELD	2	12	6
GRANT	59	1912	32
GRAYS HARBOR	44	1281	29
ISLAND	18	727	40
JEFFERSON	6	214	36
KING	123	9747	79
KITSAP	38	2044	54
KITTITAS	16	385	24
Klickitat	10	151	15
LEWIS	79	1196	15
LINCOLN	6	71	12
MASON	12	361	30
OKANOGAN	27	486	18
PACIFIC	7	77	11
PEND OREILLE	4	47	12
PIERCE	178	7560	42
SAN JUAN	2	144	72
SKAGIT	30	1483	49
SKAMANIA	5	161	32
SNOHOMISH	105	5858	56
SPOKANE	88	4298	49
STEVENS	20	428	21
THURSTON	81	3449	43
WAHKIAKUM	3	87	29
WALLA WALLA	12	922	77
WHATCOM	49	1709	35
WHITMAN	9	501	56
YAKIMA	62	3542	57
TOTALS	1,366	61,953	

Office of Manufactured Housing

Size of Registered Mobile Home Parks by County: December 30, 2005



B. NOTIFICATION CAMPAIGN

To ensure that notice was given to each manufactured/mobile home landlord or park owner and each mobile homeowner or tenant, OMH focused notification efforts in five areas:

- Direct mailings
- Websites and electronic mail
- Personal contact and phone calls
- Newspapers and newsletters
- Radio announcements

Direct mailings: As of December 31, over 25,000 resident addresses have been provided and OMH has sent notification to each resident address. Mobile Home Owners of America (MHOA) members provided the Department with its mailing list and the Department mailed notification to all 1,859 members. MHOA members also collected addresses and the Department mailed direct notification to each address provided. In addition, stakeholders were provided over 5,000 notices to distribute to residents.

Personal contact and phone calls: Since May 13, the office has received a total of 636 requests for landlord-tenant services. Calls are received through a toll-free automated services request line. In response to an increase in calls, the Department improved the toll-free line by shortening the intake message and also by providing the menu in both English and Spanish. Each complainant was mailed direct notification of the program and the new law. The Department also responded to over 650 (via telephone, email, and in person) contacts from park owners and residents with questions about the registration process.

Newspapers and newsletters: A press release was sent to a total of 84 daily and weekly newspapers throughout Washington on September 22, 2005. The press release was posted on the Access Washington home page on September 23, 2005. Additionally, at the recommendation of a stakeholder who noted that many veterans live in manufactured housing communities, the press release was posted on the Department of Veterans Affairs home page. The press release was also sent to stakeholders and interest groups.

Websites and electronic mail: OMH posted all ESHB 1640 information on its website, including a link to the bill, the resident notice, and the registration form. The website also includes a link to the forms in Spanish. During the month of December, the website received 180 contacts.

Radio announcements: On November 22, a public service announcement was sent to 12 radio stations. The Department chose specific stations, targeting counties with the most mobile home parks and the fewest Mobile Home Owners of America (MHOA) members.

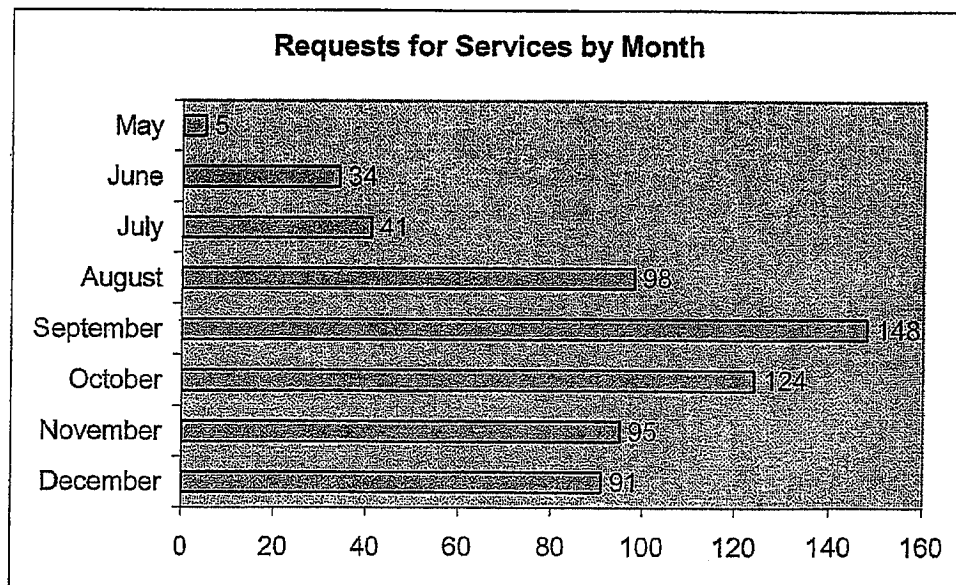
C. DISPUTE INVESTIGATIONS

CTED was required to investigate alleged unfair practices or violations of the Manufactured/Mobile Home Landlord-Tenant Act, 59.20 RCW. The Department was also required to negotiate agreements and document outcomes.

This section includes the following complaint data collected May 13 – December 31, 2005:

1. Requests for Services by Month
2. Number of Complaints
3. Nature and Extent of Complaints
4. Actions Taken on Each Complaint
5. Outcomes of Closed Cases
6. Closed Cases: No Agreement Reached – Reasons

1. Requests for Services by Month May 13, 2005 – December 31, 2005



2. Number of Complaints Received May 13, 2005 – December 31, 2005

Complaints Received (<i>Number of Complainants</i>) Complainants often report more than one issue. Of the 266 complaints under investigation or completed, a total of 739 issues were reported and investigated. Complaints are defined by ESHB 1640 as the complainant provided documentation that the other party had been notified and that timeframes to remedy, 59.20 RCW have been met. (218 completed investigations plus 48 current investigations underway = 266 total complaints)	266
Issues Reported Complainants often report more than one issue. Of the 266 complaints received, a total of 739 issues were reported and investigated. The number of issues per complaint ranged from one to ten.	739
Requests for Services Individuals seeking assistance with a landlord-tenant complaint.	636
Complaint investigation on hold pending notification (<i>Open Cases</i>) OMH has notified complainant and sent complaint form. OMH is waiting for documentation that the other party has been notified and that timeframes to remedy, under RCW 59.20, have been met.	370
Complaint investigation underway (<i>Open Complaint Investigations</i>) OMH has received required documentation; timeframes to remedy, 59.20 RCW, have been met; case managers are investigating complaint.	48
Complaint investigation completed (<i>Closed Cases</i>) See chart of Outcomes of Closed Cases.	218
Communities The 266 complaints (739 issues) were associated with 132 parks in 29 counties.	132

3. Nature and Extent of the Complaints Received May 13, 2005 – December 31, 2005
The 266 complaints received identified the following 739 issues:

ISSUE (alleged in complaints)	OCCURENCES	PARKS*
DIFFICULTIES WITH COMMUNITY MANAGER/OWNER		
	135	26
PARK RULES		
Applied unfairly; retaliatory or discriminatory in nature	123	19
LEASE CONTENT		
Lack of required items or interpretation discrepancies	103	11
PARK MAINTENANCE		
Failure of landlord to perform maintenance	77	24
PARK AMENITIES		
Differing expectations for either use of carports, community room, pool, storage, etc. or payment for their maintenance	60	2
SAFETY HEALTH/HAZARD		
Dangerous trees, overflowing dumpster, standing or contaminated water	42	17
EVICTION		
Fear of eviction or received eviction notice from landlord	36	14
HARASSMENT		
Unfair treatment of landlord, tenant or tenant's family/guests/employees/caregivers	23	11
LOT/HOME MAINTENANCE		
Lack of maintenance by tenant or landlord	18	12
UTILITIES		
Charging utility fee in excess of actual usage; failure to provide utilities as provided in lease agreement	17	6
WATER CONCERNS		
Lack of adequate water pressure; water damage resulting in standing water	12	5
RENT ISSUES		
Lack of proper rent increase notice or increases not identified in RCW 59.20	13	6
PROPERTY/LOT		
Lot boundaries not clearly defined	10	4
WATER ACCESS		
No water hookups on tenant lot; allegations of landlord limiting water usage	7	3
DIFFICULTIES WITH MOBILE HOME RESIDENT		
	7	3
LACK OF LEASE		
Lot rental without a lease agreement	8	2
RETALIATION		
Retaliatory behavior towards tenant or tenant's family/employees/caregiver/guest (once landlord notified of complaint)	7	4
SEWER PROBLEMS		
Lack of maintenance of sewer/septic system	5	3
RESIDENTIAL LANDLORD-TENANT ACT		
Complainant rents their manufactured home – not covered by RCW 59.20	5	3

ISSUE (alleged in complaints)	OCCURENCES	PARKS*
DEPOSITS		
Park occupancy deposit questions; failure to return deposit	5	2
ENFORCEMENT/MHLTA		
Lack of enforcement by landlord of RCW 59.20 among park residents	5	1
SELLING HOME PROBLEM		
Landlord hindering efforts to sell tenants home	4	2
WATER QUALITY		
Water does not meet drinking water standards	4	1
FINANCIAL TRANSACTION		
Difficulties selling home or unfulfilled financial agreements	3	1
PARK ZONING/SITING		
Management misusing property zoned or sited for other use or re: fire (parking/building) regulations	2	2
PETS		
Pets allowed in park against rules, or not allowed conditionally (e.g. support animals)	2	1
DISCRIMINATION		
Disparate treatment based on race, religion, marital status, creed, etc.	3	1
SHED MAINTENANCE		
Permanent structure requiring landlord to maintain; landlord's failure to maintain as an amenity or requiring maintenance by resident	1	1
PARK PURCHASE		
Failure to notify of park sale, confusion re: right of first refusal for resident purchase park	1	1
LEASE TRANSFER		
Withholding transfer of lease	1	1
TOTAL	739	

* Park count may be higher due to database start up problems.

4. Actions Taken on Each Complaint

Below is a summary of actions taken on each complaint. A detailed report of actions taken on each complaint is included in the Appendix.

Complaint investigation on hold pending notification (<i>Open Cases</i>) OMH has notified complainant and sent complaint form. OMH is waiting for documentation that the other party has been notified and that timeframes to remedy, under RCW 59.20, have been met.	370
Complaint investigation underway (<i>Open Complaint Investigations</i>) OMH has received required documentation; timeframes to remedy under 59.20 RCW have been met; case managers are investigating complaint.	48
Complaint investigation completed (<i>Closed Cases</i>) See chart of Outcomes of Closed Cases.	218

5. Outcomes of Closed Cases May 13, 2005 – December 31, 2005

Agreement reached	19
Partial agreement reached	15
No agreement reached	100
Complainant withdrew complaint	5
Caller could not be reached	12
Determined to be non-ho40	17
Information only	50
Total closed cases	218

¹ "Partial agreement reached," means some but not all of the issues raised in a dispute were resolved.

6. Closed Cases: No Agreement Reached – Reasons May 13, 2005 – December 31, 2005**No response from Community Owner/Manager**

Tenant provided notice and received no response/remedy. OMH then attempted to contact by phone or in writing and received no response, or contacted with a proposed remedy and received no response.

83

Resident pursuing legal action

6

Community owner pursuing legal action

3

No response from resident

Resident submitted complaint material but failed to respond to OMH attempts to contact

4

Resident responsible

Resident failed to provide receipt needed for settlement

2

Reason unknown/not reported to OMH

2

Total cases closed as “no agreement reached”

100

Laurel Park Community, et al v. City of Tumwater
Deposition of William Schmicker

Page 11

1 But that's my recollection.

2 Q Okay. How many acres is there?

3 A Well, there's some discussion about that. I'm trying to
4 find - if I can find a survey. I was looking for a
5 survey. Because I said 24. And that's my recollection
6 is 24. But I've seen - I think the city had it appraised
7 and it was - the appraiser there said 22.4. So I don't
8 know the exact acreage. But my recollection is 24.

9 Q Any reason why you would recall 24?

10 A Just it's what I remember. You know. Yeah.

11 Q Okay. Tell me about the environmental features on that
12 property. Are there any wetlands?

13 A Yeah. There's a little lake in the back center of the
14 park, which is an amenity, you know, that people love.
15 You know. The home sites around the lake are premium.
16 And so they are quite easy to rent. And so it's a nice
17 amenity that the park has. We also have a clubhouse and
18 used to have a shuffle board court. But nobody was using
19 it so it's kind of, you know, not in use anymore, still
20 there, but I don't think anybody's played it for years
21 now.

22 Q Along the western edge of the property, is there a
23 wetland adjacent to the western --

24 A There is to . . . I don't know what direction, you know,
25 that is. But if you say it's west, I'll take your word

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1 liquefaction is?

2 A I do.

3 Q Can you describe what that concept is?

4 A Well, liquefaction is a phenomenon that can occur when an
5 earthquake happens. There's a shaking that takes place.
6 And there's a layer of water underneath the ground. And
7 when this shaking occurs, the water percolates to the
8 top, rendering the soil over it less capable of bearing
9 loads.

10 Q Okay. And so how does that affect development of
11 property?

12 A Well, it's something to be concerned with. You know. In
13 San Francisco, when we had our earthquakes - and I'm from
14 San Francisco area - there's concerns about liquefaction
15 there. But there's an awful lot of San Francisco that's
16 built on property where, you know, people talk about,
17 "Well, there's liquefaction here." But you know, it
18 doesn't prevent you from putting multistory buildings up
19 and . . . But it is something that one needs to be
20 concerned with.

21 Q And it's then an issue of concern that requires some sort
22 of engineering mitigation to address as part of the
23 construction? Is that a fair statement?

24 A It can. It can.

25 Q Have you ever had anyone assess the soil conditions at

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1 Tumwater Mobile Estates to see whether you would need
2 engineering mitigation in a future development?

3 A No.

4 (Deposition Exhibit No. 6 marked
5 for identification.)

6 Q (BY MR. MYERS) This is a portion of a map prepared by the
7 Department of Natural Resources which identifies
8 liquefaction areas on the original map. The red areas
9 are areas of high concern. Is the area where this
10 sinkhole opened up part of the red area that's depicted
11 on this map?

12 A In the back portion of the park, there appears to be an
13 area that has the red.

14 Q Have you had anybody from the State of Washington ever
15 discuss with you the inclusion of a significant portion
16 of your property as a high liquefaction risk area?

17 A Would you repeat that.

18 Q Has anybody from the State of Washington ever come to you
19 and --

20 A The government? Say somebody - a governmental agency,
21 State of Washington?

22 Q State of Washington.

23 A University or not university? I mean government versus
24 university? I mean is that --

25 Q Well, let's talk about the government first. Somebody

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1 who has some regulatory or geologic responsibility for
2 the state, have they ever discussed with you the
3 inclusion of much of your property as part of a high
4 liquefaction risk area?

5 A I'm pretty certain the answer to that is no.

6 Q Let's move on to somebody who is more academic and is
7 affiliated with a university. Has anybody ever
8 approached you to discuss that?

9 A Again, the answer is no to the question the way you
10 phrase it.

11 Q Have you discussed it with anybody?

12 A Not that - not that would be included in some
13 liquefaction area, no. Now, when the engineers were out
14 there talking with us, okay, did the subject of
15 liquefaction come up in that conversation? I can't say
16 that it didn't. I don't know. I don't remember. You
17 know. I mean it . . .

18 When we're looking at the problems, geez, what
19 caused this problem to happen, well, it's right next to a
20 body of water. There could be soil . . . You know.
21 There's certainly water that enters the area from that
22 lake bed in the direction of where the failure took
23 place. So you know, certainly we could have talked about
24 the fact that, you know, geez, there's water there and
25 that had . . .

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1 Q Have you had any investigation done to determine how far
2 down the water table is?

3 A I have not.

4 Q If the State of Washington prepared a map which shows the
5 red areas on your property as being high liquefaction
6 risk areas, would you have any reason to disagree with
7 that?

8 A I have no factual reason to disagree, I mean, you know,
9 to disagree with it. I have no facts.

10 Q Have you done any analysis of whether any part of your
11 property is regulated by a critical area ordinance? Do
12 you understand what a critical area ordinance is?

13 A No.

14 Q Which is regulated by a wetland protection ordinance.

15 A Okay. So repeat the question.

16 Q My question was: Have you done any analysis to see
17 whether or not any of your property is regulated by a
18 critical area or wetland protection ordinance?

19 A No, I have not.

20 Q Are you familiar with the concept of a wetland buffer?

21 A Well, I can guess what the name means. But I'm not . . .
22 You know.

23 Q Let me ask you: In your experience in owning and
24 investing in real estate, have you run across properties
25 where part of the property was not developable because it

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1 was too close to a wetland?

2 A I own two marinas. And there's developments right up
3 next to the water, both of them. And so I have
4 experience with, you know . . . It can be an amenity to
5 development as well. And I've seen - seen it done. I
6 have heard, however, in the course of my readings about
7 real estate things in the newspapers and whatnot about
8 projects that have been impaired because of wetland
9 issues.

10 Q And it's your understanding that if the wet - it's
11 wetland itself, that may render it undevelopable?

12 A I don't know.

13 Q You said you own two marinas. Where do you own those
14 marinas?

15 A Both in California. One is in Stockton and one is in
16 Huntington Beach.

17 Q Do you own any other property in the state of Washington
18 besides Tumwater Mobile Estates?

19 A No.

20 Q I've provided you Exhibit Number 2, which is the
21 ordinance that generated this whole lawsuit. I want to
22 ask you how that has affected your operations at Tumwater
23 Mobile Estates.

24 A The ordinance?

25 Q Yes.

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1 property, how would you define what fair market value
2 means?

3 A What a willing buyer will pay a willing seller.

4 Q And do you have an opinion as to what that value would
5 have been when the property was zoned multifamily high
6 residential immediately prior to the change that the city
7 adopted in 2009?

8 A When it was still zoned . . . I - I hadn't . . . You
9 know, I'd have to do some analysis to reach a statement
10 of what I thought it was worth at that time. And I
11 haven't done that. I . . . You know. And rather than
12 throw a number out, you know, other than kind of a
13 ballpark number, then, you know, I . . . I don't.

14 Q Okay. How would you go about determining what the fair
15 market value was in order to answer that question before
16 the zoning ordinance was adopted?

17 A Well, it would be - it would be based upon . . . You
18 know, all things equal and considered, it would be based
19 upon the income of the property. And that's, you
20 know . . . You know. There are locational factors that
21 come into that, what kind of location it's in; you know,
22 is there going to be a premium associated with it because
23 it's, you know, got bus service out in front of it, you
24 know, got shopping across the street, that it potentially
25 has a use that could be commercial; the expiration of the

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1 life of the mobile homes in the commercial section of the
2 park. Those are all factors.

3 And let me expand on that a little bit. Because if
4 a guy's going to buy it, okay, who's a knowledgeable
5 buyer . . . And when you're talking in the, you know,
6 \$5 million range of a price for this park, then you're
7 talking about someone who's a sophisticated person. And
8 a sophisticated person is going to look at those old
9 mobile homes and they're going to say, "What am I going
10 to do with this? What am I going to do with this when I
11 can't buy homes to put in here, when I can't do this?"
12 And he's going to think, you know, "I gotta do something
13 because it's gonna look like a trailer park and I'm
14 buying a manufactured home park." And there's a
15 difference between a manufactured home park and a trailer
16 park. And a trailer park sells for a substantial
17 discount to what a manufactured home park sells for.

18 Q Okay.

19 (Deposition Exhibit No. 7 marked
20 for identification.)

21 Q (BY MR. MYERS) This is a copy of portions of the
22 appraisal that was performed in 2006. And do you know
23 what the purpose of this appraisal was?

24 A It was part of the refinancing appraisal.

25 Q Okay. On Bates page 4, there is a statement that the

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1 experience that municipalities are willing to rezone
2 multifamily land for commercial land because of the tax -
3 sales tax issue.

4 Q Is it your experience that they're willing to rezone
5 mobile home parks as commercial property in order to get
6 that sales tax?

7 A It is. I've seen it done, yes. But I will confess to
8 you I've seen it resisted. Okay.

9 Q And then on Bates page 42, under "Subject Site 'As
10 Improved,'" Mr. Robinson's appraisal says that, "The
11 remaining option, to remain as is, is considered the best
12 option."

13 And this is under "Physically Possible Use." Do you
14 see where he says that?

15 A "The remaining option, to remain as is, is considered the
16 best option." Okay.

17 Q Yes. Do you agree or disagree with that statement?

18 A At the present time, I agree.

19 Q Okay. And do you agree with his conclusion that as
20 improved, the highest and best use of the Tumwater Mobile
21 Estates property is as a manufactured home park?

22 A At the present time, you know, with - without the
23 presence of this ordinance, I would have concurred with
24 that.

25 Q So let me then ask you: Before the city adopted that

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1 ordinance, is it your opinion that the highest and best
2 use of the property was as a mobile home park?

3 A Yes.

4 Q And after the adoption of the mobile home park ordinance,
5 do you have any opinion as to what the highest and best
6 use of the property is?

7 A Well, if the ordinance stands, I won't have much of a
8 choice, will I? That's what this is all about, freedom
9 of choice and, you know, the ability to change when
10 change is necessary.

11 Right now I'm able to - in the front part of my
12 park, the older part, I'm able to deal with it. But it
13 isn't easy. And it may not be possible at some point in
14 time. And when that happens, then it's time to start
15 thinking about, "Okay. When and how am I going to go
16 about changing this use?"

17 Q Okay. At any time, do you believe that the Tumwater
18 Mobile Estates property has been worth \$26 million?

19 A Well, if I were to think to myself, you know, "I'm not
20 getting any - I'm not getting any younger. I want to,
21 you know, leave my kids with as much as I possibly can."
22 Therefore, I need to look at my - all my assets,
23 including the Tumwater Mobile Estates and say, "Okay.
24 How can I maximize the value of this property? What can
25 I do to maximize the value of this property?"

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1 A I didn't have time.

2 Q Is it your opinion that some day this property could be
3 worth \$26 million? Is that what statements on Exhibit 8
4 represent on the bottom of the first page?

5 A Would you repeat the question.

6 Q Down there where it says, "Total value at highest and
7 best use: \$26 million," what does that mean?

8 A Well, that means that at some point in time. You know.
9 Whether it's right now or not, I mean it depends on what
10 your motivations are. As I mentioned earlier about
11 maximizing the value of your assets, arguably . . . And
12 these numbers are, you know . . . I mean bring some
13 professionals together and we could argue about whether
14 these numbers are good numbers or not. That's kind of
15 what your - you're sort of intimating whether or not
16 they're good numbers or not.

17 And so based on my calculations, which I thought I
18 made some adjustments to my knowledge, based on my
19 knowledge, my experience, I think 26 million is a - is a
20 reasonable estimate for the highest and best use value.

21 Q Is that today?

22 A Well, not today with the ordinance in place.

23 Q Assuming that the ordinance was not in place, would it be
24 worth \$26 million today?

25 A Again, if you wanted to maximize the value of your assets

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1 and you said to yourself, "I own this; I want to
2 maximize - I don't care about anything else; my one
3 objective is to maximize the value of this asset," then,
4 you know - "and I'm willing to put the time and the
5 energy and the money into realizing that value," then
6 arguably you could come up with a value that was at
7 26 million.

8 Q So it would be worth \$26 million after the time and
9 energy was put into developing the multifamily high
10 density and commercial?

11 A To securing those property rights, yes.

12 Q How long would it take for that development to occur?

13 A Oh, it's probably a two or three-year process.

14 Q And do you know whether there is a market demand for
15 conversion to those uses currently in the city of
16 Tumwater?

17 A Well, there's a demonstratable . . . In the past,
18 there's been a demand for commercial space. There's been
19 a demand for housing. And as more housing comes in,
20 there's more demand for more commercial. So as part of
21 the developing process of the city, then you could, you
22 know, say, you know, "It looks reasonable to expect that
23 we would be able to have, you know - find tenants for the
24 commercial. We'd be able to find occupants for the
25 multifamily in the rear."

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1 And so it is . . . You know. This is where the
2 macroeconomy and the microeconomy all come together and
3 you percolate it around and try to figure out whether or
4 not it looks like a viable thing. And, you know, I mean
5 people do this. This is what real estate developers do.

6 Q And in determining how long that would take, are you
7 familiar with the concept of an absorption rate?

8 A Sure.

9 Q Have you done any analysis of the absorption rate that
10 would apply to this type of development?

11 A Well, the commercial, you know, observably quite quickly.
12 The multifamily I can't tell. I don't know. I mean you
13 drive by the commercial, you can see they're full. You
14 know. I don't know what's happening in the apartments.
15 And I've not done any research on it.

16 Q So is it possible to tell when this property would
17 support a \$26 million value?

18 A Is it possible? Repeating the question as I heard it, is
19 it possible to tell when this property might justify a
20 \$26 million value?

21 Q Yes.

22 A Well, we're arguing about it as if it's right now. We're
23 saying as of the date this ordinance passed, we used to
24 have these choices. We used to have these options to go
25 do this, to think about doing something like this. So

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1 arguably at that point in time, it had that value. Now
2 that right's been taken away. So you know, what happened
3 to it?

4 Q Let me go back to that statement. Is it your opinion
5 that before the city passed the ordinance, your property
6 had a fair market value of \$26 million?

7 A Highest and best use potential value of \$26 million.

8 Q But you wouldn't have a willing buyer actually want to
9 pay you \$26 million, would you?

10 A Nobody was offering me that amount of money or I might
11 have been a seller.

12 Q Because you had not built out the property.

13 A I hadn't done any of the things that would need to be
14 done to realize that value.

15 Q Had you ever applied for permits to do any of that type
16 of development to the City of Tumwater?

17 A Not to the City of Tumwater.

18 Q Let's go back to the next page, which is page 4 of the
19 initial disclosures. At the top of the page, there's a
20 statement that says, "The value . . ." It's the next
21 page.

22 A Oh.

23 Q "The value of Tumwater Estates at \$45,000 per space
24 equals \$5,175,000." Is that your opinion of what the
25 property is worth as a mobile home park?

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EXHIBIT E

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<p>1 A About two years.</p> <p>2 Q And how was Laurel Park Mobile Home Park owned prior to</p> <p>3 formation of Laurel Park Community, LLC?</p> <p>4 A By myself personally.</p> <p>5 Q What was the purpose of forming the LLC?</p> <p>6 A Basically my attorney's advice.</p> <p>7 Q What was the goal of forming the LLC?</p> <p>8 A I think LLCs are a protection for liability purposes.</p> <p>9 Q Was there any refinancing of the property involved when</p> <p>10 you formed the LLC?</p> <p>11 A No.</p> <p>12 (Deposition Exhibit No. 1 marked</p> <p style="padding-left: 40px;">for identification.)</p> <p>13</p> <p>14 Q (BY MR. MYERS) Mr. Eichler, I'm handing you an aerial</p> <p>15 photograph which comes out of the appraisal report done</p> <p>16 by Stephen Shapiro in this matter. I just want you to</p> <p>17 take a look at it and say do you recognize that as being</p> <p>18 an aerial photograph of your mobile home park?</p> <p>19 A Yes.</p> <p>20 Q Would you describe the surrounding community that abuts</p> <p>21 your mobile home park.</p> <p>22 A On one side of my property is a vacant ten acres that has</p> <p>23 been approved for 122 new residences. On the other side</p> <p>24 of my property is residential with several new</p> <p>25 subdivisions abutting the street right across from my</p>	<p>1 A Shown in this with one lone tree in the middle of the</p> <p>2 property.</p> <p>3 Q The property that's immediately to the west, is that</p> <p>4 currently vacant? And I'm referring to this piece of</p> <p>5 property here (indicating).</p> <p>6 A I don't know. I haven't taken . . . I haven't really</p> <p>7 looked lately so . . . If this is a current map, then</p> <p>8 it's currently vacant.</p> <p>9 Q Okay. It looks like there is a house on the far western</p> <p>10 portion of that property.</p> <p>11 A Yes.</p> <p>12 Q Other than that, are you aware of any development in the</p> <p>13 majority of that block that abuts your property?</p> <p>14 A I'm not aware of any.</p> <p>15 Q Okay. Are you aware of whether there's any development</p> <p>16 approvals pending for that property?</p> <p>17 A I heard that all of this property is going to be</p> <p>18 developed.</p> <p>19 Q Have you received any notice of pending development for</p> <p>20 that property?</p> <p>21 A Not that I'm aware of.</p> <p>22 Q Okay. Do you know what the status of the 122 homes is on</p> <p>23 the property immediately to the north?</p> <p>24 A No, I don't.</p> <p>25 Q And would that be single-family development, a</p>
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<p>1 property.</p> <p>2 Q Okay. And that's --</p> <p>3 A That would be --</p> <p>4 Q Let me ask you this: If you turned it sideways so that</p> <p>5 you could read the writing on there, does that align it</p> <p>6 with north and south approximately?</p> <p>7 A Yes.</p> <p>8 Q Okay. Could you draw a north arrow on the side over here</p> <p>9 in the margin just so that we're speaking correctly as</p> <p>10 far as directions? Just an arrow pointed toward the</p> <p>11 north generally. I'm not going to hold you to true</p> <p>12 north.</p> <p>13 A I might say I have always had a bit of trouble with</p> <p>14 directions down here so . . .</p> <p>15 Q If you drew an arrow that directly pointed at me, would</p> <p>16 that be generally to the north?</p> <p>17 A Yes.</p> <p>18 Q Okay. Why don't you go ahead and do that. And then put</p> <p>19 an "N" right at the top. Okay. That way we have some</p> <p>20 orientation. The property that you discussed being</p> <p>21 approved for 122 new residences, is that the property to</p> <p>22 the west, sort of odd-shaped piece of property</p> <p>23 immediately to the west?</p> <p>24 A No. I would say that would be to the north of me.</p> <p>25 Q To the north. Okay.</p>	<p>1 subdivision?</p> <p>2 A As I understand it. Yes.</p> <p>3 Q Is there any multifamily development surrounding your</p> <p>4 property?</p> <p>5 A I haven't investigated by driving around, so I don't</p> <p>6 believe I can answer that question.</p> <p>7 Q Have you done any investigation as to whether there's any</p> <p>8 multifamily development planned adjacent to or nearby</p> <p>9 your property?</p> <p>10 A No.</p> <p>11 Q Okay. How many acres do you have?</p> <p>12 A 11.7.</p> <p>13 Q And how many spaces do you have in the two phases?</p> <p>14 A 73.</p> <p>15 Q And do you know how - what the zoning is on the property</p> <p>16 surrounding your mobile home park?</p> <p>17 A No, I don't.</p> <p>18 Q Okay. Do you believe that operating the mobile home park</p> <p>19 is consistent with the surrounding uses in the community?</p> <p>20 A No, I don't believe it's consistent with the surrounding</p> <p>21 properties.</p> <p>22 Q Why don't you believe it's consistent with the</p> <p>23 surrounding community?</p> <p>24 A Because the surrounding community is obviously going</p> <p>25 single-family residential with a much higher density than</p>

3 (Pages 6 to 9)

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<p>1 my mobile home park.</p> <p>2 Q Do you believe that the mobile home park is, in any way,</p> <p>3 detrimental to the surrounding community?</p> <p>4 A Yes, I do. I think that mobile home parks normally are</p> <p>5 considered depreciative of values. It's always been an</p> <p>6 old joke. Nobody wants to live next to an old mobile</p> <p>7 home park.</p> <p>8 Q Is your mobile home park detrimental to the surrounding</p> <p>9 community?</p> <p>10 A I don't know.</p> <p>11 Q Do you believe that maintaining affordable housing is a</p> <p>12 legitimate goal for the City of Tumwater?</p> <p>13 A Yes.</p> <p>14 Q And do you believe that manufactured housing parks</p> <p>15 provide a source of affordable housing compared to other</p> <p>16 housing types?</p> <p>17 A Yes.</p> <p>18 Q Okay. When did you purchase Laurel Park?</p> <p>19 A In September of 1991.</p> <p>20 Q How much did you pay?</p> <p>21 A A million three.</p> <p>22 Q And did you finance the property at that time?</p> <p>23 A Yes.</p> <p>24 Q And was an appraisal done of the property?</p> <p>25 A Not to my knowledge.</p>	<p>1 Q Okay. Do you still own that property?</p> <p>2 A No.</p> <p>3 Q When did you sell that property?</p> <p>4 A In probably the late '90's, although I'd have to check my</p> <p>5 figures for sure on that.</p> <p>6 Q Okay. Did the buyer express concern about buying</p> <p>7 property next to a mobile home park?</p> <p>8 A No.</p> <p>9 Q What were the results of your evaluation of possibly</p> <p>10 expanding onto that property?</p> <p>11 A It was not economically viable to do so because I would</p> <p>12 have to put in - use over half that property for septic</p> <p>13 fields.</p> <p>14 Q And at the time you made that evaluation, you were</p> <p>15 located in unincorporated Thurston County?</p> <p>16 A I don't understand unincorporated Thurston County.</p> <p>17 Q You were located outside the city limits at that point in</p> <p>18 time?</p> <p>19 A I was located in Thurston County.</p> <p>20 Q Right. But not within a city at the time?</p> <p>21 A That's right. In the county, not the city.</p> <p>22 Q You mentioned septic was an issue there. What is the</p> <p>23 type of septic systems that Laurel Park has?</p> <p>24 A We have numerous systems with about three homes per</p> <p>25 system generally, three homes per drainfield. I believe</p>
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<p>1 Q Okay. When you purchased Laurel Park, was the park in</p> <p>2 existence?</p> <p>3 A Yes.</p> <p>4 Q Okay. Were both phases in existence when you purchased</p> <p>5 the park?</p> <p>6 A Yes.</p> <p>7 Q And were there all 73 spaces when you purchased the park?</p> <p>8 A Yes.</p> <p>9 Q After you purchased the park, was there a time when you</p> <p>10 looked at expansion of the park?</p> <p>11 A Well, I've always ... Excuse me. Expansion of the</p> <p>12 park as a mobile home park?</p> <p>13 Q As a mobile home park.</p> <p>14 A Yes.</p> <p>15 Q Okay. And when did you begin looking at potential</p> <p>16 expansion?</p> <p>17 A Within two or three years after I purchased the property.</p> <p>18 Q Okay. And what plans did you evaluate as far as the</p> <p>19 expansion of the existing mobile home park?</p> <p>20 A I owned the ten acres north of me and looked into the</p> <p>21 fact about expanding the mobile home park onto that</p> <p>22 additional ten acres.</p> <p>23 Q And that's the piece of property that we identified as a</p> <p>24 possible 122-unit development?</p> <p>25 A Yes.</p>	<p>1 there may be one or two that have four homes per</p> <p>2 drainfield, maybe one that has two homes per drainfield.</p> <p>3 Q Okay. And all of those drainfields are located within</p> <p>4 the property limits that are set forth here in red?</p> <p>5 A Yes.</p> <p>6 Q And have you had any problems with the operation of your</p> <p>7 drainfields on site?</p> <p>8 A Yes.</p> <p>9 Q What type of problems have you had?</p> <p>10 A We've had several failures.</p> <p>11 Q When was the last failure you had?</p> <p>12 A I'd have to check my records.</p> <p>13 Q Have you ever had a drainfield failure that could not be</p> <p>14 rehabilitated?</p> <p>15 A No.</p> <p>16 Q Generally speaking, is there a cause of the drainfield</p> <p>17 failures, to your knowledge?</p> <p>18 A I'm not knowledgeable enough about the details of that.</p> <p>19 Q Do you know whether Laurel Park has adopted any programs</p> <p>20 to prolong the life of the drainfield?</p> <p>21 A Yes.</p> <p>22 Q What type of programs have you implemented at</p> <p>23 Laurel Park?</p> <p>24 A We're very serious about trying to maintain our septic</p> <p>25 system, because that's the lifeblood of the property. We</p>

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<p>1 have a scheduled pumping program. And it's looked after</p> <p>2 by a licensed septic company.</p> <p>3 Q Okay. What other things does your drainfield and septic</p> <p>4 program involve?</p> <p>5 A We advise our residents from time to time on what they</p> <p>6 should be and what they shouldn't be putting down their</p> <p>7 systems.</p> <p>8 Q Do you restrict use of garbage disposals?</p> <p>9 A I don't have that information at my fingertips right now.</p> <p>10 Q Okay. Have you had any discussions with your septic</p> <p>11 system company concerning the expected life of your</p> <p>12 existing drainfields?</p> <p>13 A No.</p> <p>14 Q What's the current space rent that you charge your</p> <p>15 tenants?</p> <p>16 A \$460 per month.</p> <p>17 Q Is that the 2010 rate?</p> <p>18 A It's the current rate.</p> <p>19 Q Okay. Was that the rate in 2009?</p> <p>20 A For part of 2009.</p> <p>21 Q Okay. So you raised your rent at some point in 2009?</p> <p>22 A Yes.</p> <p>23 Q What was the increase from?</p> <p>24 A \$430.</p> <p>25 Q And when did you raise that?</p>	<p>1 Q (BY MR. MYERS) Mr. Eichler, handing you page 3 of the</p> <p>2 Plaintiffs' Initial Disclosures in this case, which was</p> <p>3 provided by legal counsel. And this is only page 3. Did</p> <p>4 you review the initial disclosures when they were made</p> <p>5 last September?</p> <p>6 A I don't understand the —</p> <p>7 Q This page I'm representing to you is page 3 of some</p> <p>8 disclosures that were made in the course of this</p> <p>9 litigation under the Federal Rules of Civil Procedure.</p> <p>10 My question is: Did you have a chance to review the</p> <p>11 disclosure that was made concerning your testimony, which</p> <p>12 is shown on this page?</p> <p>13 A I looked at a lot of things. And I can't say absolutely</p> <p>14 that I looked — reviewed this or not.</p> <p>15 Q Okay. In this disclosure, it states that you will</p> <p>16 testify concerning the liability and damages that are</p> <p>17 sought in this lawsuit. And it makes a statement that</p> <p>18 the land under appropriate zoning would be valued in a</p> <p>19 couple of different ways. My first question has to do</p> <p>20 with what do you consider appropriate zoning to be for</p> <p>21 your property?</p> <p>22 A The zoning that was in effect when I purchased it, which</p> <p>23 was medium density multifamily.</p> <p>24 Q Okay. And did the county ever have different zoning than</p> <p>25 what ultimately became the city's zoning designation of</p>
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<p>1 A Without checking in my records, I think the rent went up</p> <p>2 on June 1st.</p> <p>3 Q Do you normally raise the rents or evaluate rental</p> <p>4 increases on an annual basis?</p> <p>5 A Yes.</p> <p>6 Q And did you raise the rent from 2008 to 2009?</p> <p>7 A Yes.</p> <p>8 Q Okay. What was the rent in 2008?</p> <p>9 A I don't have that information exactly.</p> <p>10 Q Okay. Did Laurel Park make a profit in 2009?</p> <p>11 A Yes.</p> <p>12 Q And did it make a profit in 2008?</p> <p>13 A Yes.</p> <p>14 Q 2007?</p> <p>15 A Yes.</p> <p>16 Q Have there been any years since you owned it that it did</p> <p>17 not make a profit?</p> <p>18 A No.</p> <p>19 Q Have you had any . . . What type of water system does</p> <p>20 Laurel Park have?</p> <p>21 A Well water.</p> <p>22 Q Have you had any problems providing water to your</p> <p>23 tenants?</p> <p>24 A No.</p> <p>25 (Deposition Exhibit No. 2 marked</p>	<p>1 multifamily medium density residential?</p> <p>2 A Not while I owned the property.</p> <p>3 Q Okay. The statement here says that the land — with that</p> <p>4 appropriate zoning, for uses currently taking place in</p> <p>5 the immediate area, would value Laurel Park as follows.</p> <p>6 What do you mean "value" in the context . . . Do you</p> <p>7 know what that term would mean?</p> <p>8 A Would you ask the question again.</p> <p>9 Q Okay. In the last portion of the paragraph after your</p> <p>10 office address information, you see the sentence that</p> <p>11 reads, "The land under appropriate zoning"? It says,</p> <p>12 "would value Laurel Park as follows." What is your</p> <p>13 understanding of what "value" means?</p> <p>14 A "Value" would mean the price that a willing buyer and a</p> <p>15 willing seller were able to reach for the highest and</p> <p>16 best use of the property.</p> <p>17 Q Okay. In the next sentence down, it says medium density</p> <p>18 12 acres at 15 units per acre at 50,000 per unit equals</p> <p>19 \$9,000,000 total value at highest and best use. My first</p> <p>20 question is: What is your understanding of the meaning</p> <p>21 of the term "highest and best use"?</p> <p>22 A Meaning of the term "highest and best use" would be the</p> <p>23 medium density multifamily zoning.</p> <p>24 Q Okay. How would you go about determining what the</p> <p>25 highest and best use of property is?</p>

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<p>1 A Highest and best use is what the demand is for the 2 property at any special time. 3 Q Has there ever been demand for your property for - to 4 purchase it for redevelopment into medium density 5 multifamily housing? 6 A No. 7 Q Do you have an opinion that the fair market value of your 8 property before the adoption of the city's zoning 9 ordinance was ever \$9,000,000? 10 A If I understand your question, I believe it was a minimum 11 of \$9,000,000. I believe \$50,000 per unit was the least 12 that the property would have been worth. 13 Q And how did you go about determining that? 14 A From discussions with people over the period of time and 15 from some of my own conclusions. In Seattle, Auburn 16 area, for example, lots were a hundred to hundred and 17 twenty-five thousand dollars. I assumed that - my 18 assumption myself that lots in Tumwater were not going to 19 be worth the same as in the Seattle area. And I've 20 always thought that the value would be somewhere between 21 60 and 80 thousand dollars per lot to a 22 builder/developer. 23 Q Would that be for single-family lots or multifamily? 24 A Single-family. 25 Q How was it you arrive at the number 50,000 per unit? Or</p>	<p>1 Q When you say that you believe that the lots should be 2 worth 60 to 80 thousand, is that ready for building the 3 house, including the infrastructure necessary to improve 4 the property? 5 A I believe I made that valuation on having the building 6 permit in hand and ready to build. I don't remember 7 whether that included roads. 8 Q Okay. Before the property would have that value, do you 9 believe you'd incur the costs of building the roads and 10 putting in water and sewer? 11 A Yes. 12 Q Okay. Have you done any analysis to determine how much 13 that would cost for your property? 14 A Some analysis was done on the property in about 2006 by a 15 developer consultant, and I don't remember if they did a 16 figure on that. 17 Q Okay. Have you done any analysis to determine whether 18 the market demand exists to develop 15 units per acre on 19 your property? 20 A Would you ask me that again, please. 21 Q Have you done any analysis to determine whether there is 22 a market demand to redevelop your property at 15 units 23 per acre? 24 A I haven't personally. 25 Q Okay. Have you had someone else do that analysis?</p>
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<p>1 let me ask you this: Do you agree with the initial 2 disclosure that at a medium density multifamily 3 development, it should be valued at 50,000 per unit? 4 A I have probably said that it's never - I never believed 5 it was worth less than 50,000. 6 Q And how would you go about determine that 50,000 per 7 unit? 8 A As I just told you, I think it's worth 60 to 80 thousand 9 dollars a unit. And as a conservative figure, I would 10 have said I'm sure not less than 50 thousand. 11 Q Is it your understanding then that in this Initial 12 Disclosure, you are valuing medium density as a 13 single-family use? 14 A Yes. 15 Q Are you aware of any developments that have developed 15 16 units - or 15 lots per acre of single-family development 17 in Tumwater? 18 A No. 19 Q Are you aware of any developments that have had 15 units 20 of single-family development anywhere in Thurston County? 21 A I've never done any research, so I don't know. 22 Q When you mentioned the lots in Auburn and King County, do 23 you know what density the \$125,000 lots were being 24 developed at? 25 A I don't have that information at my fingertips. No.</p>	<p>1 A There was an analysis done in about 2006. 2 Q And who did that analysis? 3 A Century Pacific Realty. 4 (Deposition Exhibit No. 3 marked for identification.) 5 6 Q (BY MR. MYERS) Mr. Eichler, this is a declaration that 7 has been submitted by your legal counsel to me. And I 8 want to refer you to Exhibit B, which has a letter dated 9 December 13th, 2006 and a memorandum dated April 2nd, 10 2007. 11 A Okay. 12 Q Century Pacific, is this the demand analysis that you 13 were referring to? 14 A What? 15 Q Does this document, either the December 13th, 2006 or the 16 April 2nd, 2007 memoranda, do they discuss the market 17 demand for your property? 18 A Yes. 19 Q Okay. Can you show me where that is discussed in these 20 documents? 21 A The discussion of 15 units per acre? 22 Q The discussion of the market demand to redevelop your 23 property at 15 units per acre. 24 A I don't... 25 (Deposition Exhibit No. 4 marked</p>

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<p>1 Q (BY MR. MYERS) Mr. Eichler, I'm going to show you</p> <p>2 another exhibit, which has been marked as Exhibit 4. And</p> <p>3 this is a letter from Century Pacific dated March 9,</p> <p>4 2007. Does this letter contain the market analysis we</p> <p>5 were just discussing?</p> <p>6 A Yes.</p> <p>7 Q Okay. And on the first page, which has a number in the</p> <p>8 corner of 222, there is a statement there which said,</p> <p>9 "These numbers suggest that it may make more sense to</p> <p>10 continue operating this property as a mobile home park</p> <p>11 and/or taking it to market on the basis of a mobile home</p> <p>12 park and not a development opportunity." Do you see that</p> <p>13 statement?</p> <p>14 A I remember it. Yes.</p> <p>15 Q Okay. Did you agree with that statement?</p> <p>16 A Yes.</p> <p>17 Q So based on the analysis that Century Pacific did in</p> <p>18 early 2007, you agreed that, at that point in time, the</p> <p>19 highest and best use of the property was as a mobile home</p> <p>20 park?</p> <p>21 A Yes.</p> <p>22 Q Has there been any change in conditions since March of</p> <p>23 2007 that would create demand for redevelopment of the</p> <p>24 property?</p> <p>25 A I believe if I have my dates right, that there was a</p>	<p>1 through your legal counsel, which appears to be an offer</p> <p>2 to purchase the Laurel Park Mobile Home Park by West</p> <p>3 Pinnacle Investments, LLC.</p> <p>4 A Yes.</p> <p>5 Q Is that your understanding of what this document is?</p> <p>6 A Yes.</p> <p>7 Q Okay. And you received this in October of 2007?</p> <p>8 A Yes.</p> <p>9 Q And West Pinnacle Investments, the individual who was</p> <p>10 representing them was John Dunham. Do you know</p> <p>11 Mr. Dunham?</p> <p>12 A I may have met him.</p> <p>13 Q Do you know whether he owns the Allimor Mobile Home Park</p> <p>14 in the city of Tumwater?</p> <p>15 A No, I don't.</p> <p>16 Q This offer is for \$4,000,000. Did you accept this offer?</p> <p>17 A No.</p> <p>18 Q Why not?</p> <p>19 A Because I didn't think this was anywhere near the</p> <p>20 developmental price of the property. This was more a</p> <p>21 price for a mobile home park. I had no desire to sell my</p> <p>22 mobile home park at mobile home park prices.</p> <p>23 Q In your declaration, Exhibit 3, going back to the letters</p> <p>24 from Century Pacific, the very last page of that is the</p> <p>25 April 2nd, 2007 memorandum from Century Pacific. Do you</p>
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<p>1 housing boom that hit Tumwater after that period and a</p> <p>2 lot of new houses started to be built, which showed there</p> <p>3 was a demand for higher and better use of the property.</p> <p>4 And that had not the recession come, with all the housing</p> <p>5 going on - particularly with the property right next to</p> <p>6 me with a permit for 122 houses. And if you drive around</p> <p>7 the area, you'll see lots of new houses and developments.</p> <p>8 It was clear to me that after this period, there was a</p> <p>9 building boom that had started to happen down in that</p> <p>10 area.</p> <p>11 Q Okay. Can you tell me when this boom approximately was</p> <p>12 occurring? I take it there was a window of opportunity</p> <p>13 that you would call the boom period before the recession</p> <p>14 hit. Is that a fair way to characterize what you just</p> <p>15 told me?</p> <p>16 A Yes, I think there was.</p> <p>17 Q Okay. Can you tell me approximately when this window</p> <p>18 began and when the recession hit that closed that window?</p> <p>19 A I don't have those facts at my fingertips.</p> <p>20 Q Okay. After March of 2007, did you make any effort to</p> <p>21 sell your property for redevelopment purposes?</p> <p>22 A No.</p> <p>23 (Deposition Exhibit No. 5 marked</p> <p>24 for identification.)</p> <p>25 Q (BY MR. MYERS) Exhibit 5 is a document that was provided</p>	<p>1 know, was this from Mr. Mathewson?</p> <p>2 A It was from his company.</p> <p>3 Q Okay. This appears to be a redacted document. Did you</p> <p>4 see a full version of this document?</p> <p>5 A Yes.</p> <p>6 Q The portion which is disclosed in this document states</p> <p>7 that the value - under A, says 11.73 acres MF, medium</p> <p>8 density residential, nine to 15 units per acre,</p> <p>9 3.7 million.</p> <p>10 A Yes.</p> <p>11 Q Was it your understanding that that was Century Pacific's</p> <p>12 opinion as to the value for redevelopment purposes?</p> <p>13 A Yes.</p> <p>14 Q And under B, it says, "NOI \$250,000." Is it your</p> <p>15 understanding that means net operating income 250,000?</p> <p>16 A Yes.</p> <p>17 Q Is that a correct approximation of your net operating</p> <p>18 income in 2007?</p> <p>19 A An approximation. Yes.</p> <p>20 Q They rounded it; correct?</p> <p>21 A (Nods head.)</p> <p>22 Q You have to respond audibly so she can take down a word.</p> <p>23 A Oh, I'm sorry. Yes.</p> <p>24 Q Okay. And that the value they were placing on your</p> <p>25 property was 3.3 million using a cap rate of 7.5 percent?</p>

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<p>1 A No. The ... If I'm looking at this correctly and</p> <p>2 understand your question, the 7 percent cap rate yields a</p> <p>3 3.6 million dollar value.</p> <p>4 Q Thank you. And the value of the property at 14 units per</p> <p>5 acre would be 3.7 million; correct?</p> <p>6 A That's what they say. Yes.</p> <p>7 Q Okay. And it would take a certain number of expenditures</p> <p>8 to be able to create 14 units per acre; correct?</p> <p>9 A I don't have their thinking at my fingertips here, so I</p> <p>10 don't know whether that was based on raw land or</p> <p>11 developed land. I don't believe it says here.</p> <p>12 Q Okay. Go back to Exhibit Number 3. I'd like to ask you</p> <p>13 about paragraph number 5. Paragraph number 5, it states</p> <p>14 that you did not oppose annexation into the City of</p> <p>15 Tumwater in reliance on Tumwater's assurance that it</p> <p>16 would not change the underlying residential zoning of the</p> <p>17 park. My question is: Who gave you assurance from the</p> <p>18 City of Tumwater that there would not be a change in the</p> <p>19 underlying zoning?</p> <p>20 A David Ginther and others that I've talked to about the</p> <p>21 zoning.</p> <p>22 Q When did Mr. Ginther tell you that there would not be a</p> <p>23 zoning change?</p> <p>24 A I should clarify that I did not hear that directly from</p> <p>25 David Ginther. That was my professional person that I</p>	<p>1 Mr. Ginther saying that the zoning would not change?</p> <p>2 A That's right.</p> <p>3 Q Did Mr. Missall tell you that the zoning would not change</p> <p>4 for any given period of time?</p> <p>5 MR. OLSEN: Object to the form of the question</p> <p>6 if it requires privileged communications between</p> <p>7 Mr. Missall and Mr. Eichler.</p> <p>8 Q (BY MR. MYERS) Okay. Let me ask you this: Did</p> <p>9 Mr. Missall relate to you a statement from David Ginther</p> <p>10 as to whether or not Mr. Ginther had used a period of</p> <p>11 time in that representation? I'm not necessarily saying</p> <p>12 what Mr. Missall might have believed or advised you.</p> <p>13 What I want to know is: Did he tell you that Ginther</p> <p>14 said it will be for "X" period of time?</p> <p>15 A There was no mention of any - of any length of time.</p> <p>16 Q Okay.</p> <p>17 A It had always been my understanding from - and I believe</p> <p>18 from others, that there was no period of time that ...</p> <p>19 I didn't oppose the annexation because I heard that</p> <p>20 Tumwater would not change their zoning. And I relied on</p> <p>21 that.</p> <p>22 Q Okay. Was it your understanding that the city had</p> <p>23 committed never to rezone that property in perpetuity?</p> <p>24 A My understanding was that they were not going to change</p> <p>25 the zoning. And I assumed they were going to stick with</p>
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<p>1 had to give me the opinion. It was told to me that</p> <p>2 David Ginther had said that there would not be a change</p> <p>3 in the annexation.</p> <p>4 Q Would that have been Mr. Mathewson?</p> <p>5 A No.</p> <p>6 Q Would that have been Mr. Wood?</p> <p>7 A No.</p> <p>8 Q Who relayed the information that Mr. Ginther said there</p> <p>9 would not be a change in zoning?</p> <p>10 A My land use attorney at that time, Scott Missall.</p> <p>11 Q Did Mr. Missall get any representations to you in</p> <p>12 writing?</p> <p>13 A Yes.</p> <p>14 Q What written representations ... Did he provide a</p> <p>15 written representation from the City of Tumwater to you</p> <p>16 that Mr. Ginther had signed?</p> <p>17 A No.</p> <p>18 Q So Mr. Missall wrote to you to tell you that Mr. Ginther</p> <p>19 had made this statement; correct?</p> <p>20 A Yes.</p> <p>21 Q There's no written documents from anyone in the City of</p> <p>22 Tumwater that Mr. Ginther - from Mr. Ginther concerning</p> <p>23 that; correct?</p> <p>24 A I don't have that information.</p> <p>25 Q So you have never seen a written document signed by</p>	<p>1 the county zoning. And I assumed that they agreed with</p> <p>2 the county zoning and they wanted a higher and better use</p> <p>3 for the property.</p> <p>4 Q And did you have any understanding as to how long that</p> <p>5 would be the case?</p> <p>6 A No.</p> <p>7 Q Did you assume that that would be the case in perpetuity?</p> <p>8 A Yes.</p> <p>9 Q Have you ever owned property that has been downzoned?</p> <p>10 A Yes.</p> <p>11 Q What's your experience with downzoning?</p> <p>12 A Would you restate that, because I don't know how to</p> <p>13 answer what my experience --</p> <p>14 Q I just asked you whether you had any experience with</p> <p>15 property that you owned being downzoned. Where was that</p> <p>16 property?</p> <p>17 A Oh, I've had property downzoned, and it was in Auburn.</p> <p>18 Q What was the change that Auburn enacted for your</p> <p>19 property?</p> <p>20 A I don't remember the exact technical county zoning, but</p> <p>21 they changed the county high density zoning to mobile</p> <p>22 home park only or some call it a mobile home park</p> <p>23 overlay. I'm not ... My only memory is that - about</p> <p>24 that, that I know I lost any development rights for that</p> <p>25 higher and better use.</p>

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<p>1 Q Okay. So when did Auburn change the zoning from high</p> <p>2 density to mobile home park zoning?</p> <p>3 A Within the last three years, if I recall correctly.</p> <p>4 Q Did you do any analysis to determine whether that</p> <p>5 impacted the value of your property in Auburn?</p> <p>6 A Yes. I had some professionals do an analysis of that.</p> <p>7 Q And what was the results of that analysis?</p> <p>8 A That it severely restricted the value of my property for</p> <p>9 its highest and best use.</p> <p>10 Q Did you have them do a before-and-after analysis of the</p> <p>11 value of your property in Auburn?</p> <p>12 A I don't recall the details of the analysis.</p> <p>13 Q Do you recall approximately how much value impact was</p> <p>14 made by Auburn's zoning?</p> <p>15 A Yes.</p> <p>16 Q What do you recall?</p> <p>17 A These figures are my recollection, and if there was some</p> <p>18 papers that showed differently, because there's always</p> <p>19 discussions. But my recollection was that my mobile home</p> <p>20 park was worth approximately \$6,000,000 and the value of</p> <p>21 my land as vacant land was approximately worth</p> <p>22 14,200,000.</p> <p>23 Q How did you determine . . . How was the property worth</p> <p>24 14,200,000 as vacant? How was that determined?</p> <p>25 A I don't recall. But I don't have that information at my</p>	<p>1 sale to a builder. And I've always said so the builder</p> <p>2 can come in and start digging the next day, but I don't</p> <p>3 know exactly how far that is.</p> <p>4 Q Let's go back to your declaration. And in paragraph 5,</p> <p>5 where you were talking about expectation that you could</p> <p>6 redevelop the property if another viable opportunity</p> <p>7 presented itself. What did you mean by the statement</p> <p>8 that you wanted to preserve your reasonable expectation</p> <p>9 that you could redevelop it if another viable opportunity</p> <p>10 presented itself?</p> <p>11 A I meant that I was hoping to develop it to the zoning</p> <p>12 capabilities that were on the property when I purchased</p> <p>13 it, the medium density, single slash multifamily,</p> <p>14 whatever it is, the zoning that was on the property when</p> <p>15 I purchased it.</p> <p>16 Q Okay. Let me ask you a bit about this declaration. Did</p> <p>17 you draft the language that is found here in this</p> <p>18 declaration?</p> <p>19 A No.</p> <p>20 Q Okay. So this was drafted by someone else and then you</p> <p>21 reviewed it; correct?</p> <p>22 A That's correct.</p> <p>23 Q Did you have any time frame in which you expected this</p> <p>24 other viable opportunity to present itself?</p> <p>25 A Time frame from when?</p>
Page 35	Page 37
<p>1 fingertips to be able to tell you that.</p> <p>2 Q Is that your opinion as the owner as to what it was worth</p> <p>3 if it was vacant? Or is that something someone else has</p> <p>4 told you?</p> <p>5 A I believe that came from a real estate professional, but</p> <p>6 not a real estate appraiser.</p> <p>7 Q A broker?</p> <p>8 A Yes.</p> <p>9 Q Do you know how the broker would have determined the</p> <p>10 14.2 million dollar value?</p> <p>11 A I don't have that information at my fingertips. No.</p> <p>12 Q Do you know how he would have valued your mobile home</p> <p>13 park at \$6,000,000?</p> <p>14 A Yes, by the cap rate analysis that I discussed earlier</p> <p>15 with you.</p> <p>16 Q Do you know if the 14.2 million dollar value was an</p> <p>17 opinion as to the value if it was fully developed as high</p> <p>18 density development?</p> <p>19 A Yes. I believe that value was with - after having</p> <p>20 obtained a building permit and . . . You'll have to</p> <p>21 excuse me. I'm not a developer, so I am a little unclear</p> <p>22 on what development stages there are in development. But</p> <p>23 I know that it included obtaining a building permit, and</p> <p>24 it may have included the next step for it. It did not</p> <p>25 include getting ready - having the property ready for</p>	<p>1 Q Well, you've drafted this and signed it on January 25th,</p> <p>2 2010. And this talks about your expectations in 2008</p> <p>3 when the annexation was pending. At that point in time,</p> <p>4 did you have a plan to redevelop the property within any</p> <p>5 certain time period?</p> <p>6 A My only plan to redevelop the property was when the time</p> <p>7 came that the highest and best use - demand for the</p> <p>8 property would be for the higher and better use. And I</p> <p>9 really didn't know if it was next year, two years from</p> <p>10 now, five years from now. I bought the property in 1991</p> <p>11 knowing that the highest and best use, value at that time</p> <p>12 was a mobile home park. And I looked to the future and</p> <p>13 hoped for the future that in my lifetime, the demand for</p> <p>14 that property would be for me to develop it into the</p> <p>15 zoning that was on the property. I've never had an exact</p> <p>16 time and date, because I've had to wait for the</p> <p>17 opportunity to present itself.</p> <p>18 Q Okay. The last sentence of paragraph 5, you discussed</p> <p>19 the city had begun a process to rezone the park in 2007.</p> <p>20 When did you first become aware that Tumwater was in the</p> <p>21 process to rezone mobile home parks?</p> <p>22 A I don't know that I can pin down any date, but certainly</p> <p>23 after the annexation. And I think the annexation was in</p> <p>24 December of 2007. And I wasn't aware of that - anything</p> <p>25 they were going to do to change the ordinance until</p>

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February 15, 2010
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Laurel Park v. City of Tumwater
Deposition of Robert Eichler

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<p>1 2006.</p> <p>2 Q Okay. And do you recall approximately when you had</p> <p>3 purchased that property?</p> <p>4 A I don't recall the exact time.</p> <p>5 Q When you sold that property, did the buyer purchase it to</p> <p>6 change it to a use other than a mobile home park?</p> <p>7 A I believe they bought it initially to preserve it as a</p> <p>8 mobile home park. And I also believe... I also</p> <p>9 believe that they had long-range values to redevelop it</p> <p>10 into affordable housing.</p> <p>11 Q Do you know who the buyer was for Wonderland Estates?</p> <p>12 A Yes. King County Housing Authority.</p> <p>13 Q Do you recall how much you paid for Wonderland Estates</p> <p>14 when you bought it?</p> <p>15 A Approximately 3.9 million dollars.</p> <p>16 Q And how much did you sell it for?</p> <p>17 A Approximately 8.6 million.</p> <p>18 Q Can you give me an estimate of the time period that you</p> <p>19 held that property in terms of number of years?</p> <p>20 A My estimate and my recollection only is 10 years or less.</p> <p>21 Q Approximately 10 years. Do you know how the 8.6 million</p> <p>22 dollar sale price was arrived at?</p> <p>23 A Yes, I do.</p> <p>24 Q Can you describe that for me?</p> <p>25 A Yes. I entered into negotiations with the county. Go</p>	<p>1 because they were willing to pay - do a - again, this is</p> <p>2 from memory - a 30-day contingency and a 30-day all-cash</p> <p>3 deal. So I was able to sell the property to the county</p> <p>4 at a better - a discount from what we believed the</p> <p>5 developmental price was. And in turn for that, I was</p> <p>6 able to get my cash now. And so we agreed upon a</p> <p>7 \$10,000,000 value subject to an appraisal.</p> <p>8 That agreement was made I believe in August. And in</p> <p>9 between the time that we... And the county agreed</p> <p>10 that they would pay me the \$10,000,000 subject to an</p> <p>11 appraisal showing it having a value of \$10,000,000. And</p> <p>12 at that point, no one was in disagreement that the</p> <p>13 property was worth \$10,000,000. However, the county was</p> <p>14 happy with the price, I was happy with the price, whoever</p> <p>15 was my - I believe it was Century Pacific, but I don't</p> <p>16 remember, was happy with the price. It was all subject</p> <p>17 to an appraisal.</p> <p>18 Within that time period... Within the 30-day</p> <p>19 period of that date, the market crashed and just wiped</p> <p>20 out that value from 10 million down to the 8.6. And it</p> <p>21 was nobody two weeks later or whatever the time period</p> <p>22 was - it was in their contingency period - there was</p> <p>23 nobody in that short time that would agree it was worth</p> <p>24 \$10,000,000. And the county was willing to pay me what</p> <p>25 an appraised price would be.</p>
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<p>1 back. I was going to develop that property under county</p> <p>2 high density zoning. And again, I'm only trying to</p> <p>3 recall from memory. I'm not the best at my memory. And</p> <p>4 I believe we even got a permit to begin the development</p> <p>5 process. I gave notice to the tenants that we were going</p> <p>6 to close the community. And King County Housing</p> <p>7 Authority indicated an interest in buying it from me. I</p> <p>8 told them I'd be willing to sell it to them for my</p> <p>9 developmental - for a developmental value as opposed to a</p> <p>10 mobile home park value.</p> <p>11 Q How did you arrive at the developmental value of</p> <p>12 \$8.6 million?</p> <p>13 A Actually not arrived at the developmental value of the</p> <p>14 park. The arrived... The arrived-at value I believe</p> <p>15 was about \$10,000,000, which was a discount from</p> <p>16 what... If I recall, we believed the property to be</p> <p>17 worth about \$12,000,000. And I felt it was very exciting</p> <p>18 that King County Housing Authority would come in and do</p> <p>19 what they - the public should be doing to preserve mobile</p> <p>20 home parks. They were willing to buy it from me to</p> <p>21 preserve the mobile home park and pay me my developmental</p> <p>22 value, which is exactly the way I think cities should be</p> <p>23 doing it if they want to preserve mobile home parks or</p> <p>24 preserve affordable housing.</p> <p>25 So I was willing to discount my price to them</p>	<p>1 Q Okay. You mentioned that this - you had an agreement</p> <p>2 essentially on \$10,000,000 in August, I believe. Do you</p> <p>3 recall what year you had that agreement in August? Was</p> <p>4 that --</p> <p>5 A I've told you it was 2006.</p> <p>6 Q 2006?</p> <p>7 A But --</p> <p>8 Q Because my recollection is that the economy had a</p> <p>9 significant downturn in 2008. Or... I'm just</p> <p>10 wondering if you're certain that it was 2006 that we had</p> <p>11 this agreement for \$10,000,000.</p> <p>12 A Clearly I said I'm not certain. My recall of dates...</p> <p>13 I have no notes. My recall of dates... And the time</p> <p>14 goes by so fast that I want to make clear I'm not certain</p> <p>15 about these dates. They're all obtainable.</p> <p>16 Q Sure. You mentioned in that particular case, you had</p> <p>17 taken out permits to redevelop the property. What</p> <p>18 redevelopment project were you planning on implementing</p> <p>19 at the King County site, the Wonderland site?</p> <p>20 A We were in the application stage. Again, I have to -</p> <p>21 counting on my memory. I have no notes. I can get you</p> <p>22 any information that you'd like to know at another time</p> <p>23 if you'd like to know it. But I can't absolutely stand</p> <p>24 by it. Would you like me to comment on it if I can't</p> <p>25 stand by the date absolutely here?</p>

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February 15, 2010
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CENTURYPACIFIC, L.P.

CAMPBELL MATTHEWSON
VICE PRESIDENT

March 9, 2007

Mr. Robert M. Eichler
Lake-Land Investments
3455 Hunts Point Road
Bellevue, WA 98004

Re: Summary of real estate issues

Dear Bob:

Thank you again for the opportunity to allow CenturyPacific to assist you with the development and sale options of your various mobile home parks. This letter is for the purpose of providing you with an overview of real estate issues in regards to your mobile home parks located in [REDACTED] Tumwater and [REDACTED]. We look forward to an opportunity to discuss these matters with you at your convenience.

Tumwater (3244 66th Avenue S.W., Olympia, WA 98512)

This 11.73 acre property is zoned Multi-Family Medium Density Residential (MFM) in Thurston County with a density of 9 to 15 units per acre. Since the county requires a minimum of 9 units per acre which would provide relatively small 3,700 square foot lots, we believe that the zoning of this property forces a more dense multi-family product. At 14 units per acre (i.e., one less than the maximum), the value of the Tumwater site today is \$3.7 million (see attached). However, since you currently yield approximately \$250,000 per year in net operating income, using a 7.0% capitalization rate yields a value of \$3.6 million; at a 7.5% cap rate the value is \$3.3 million. These numbers suggest that it may make more sense to continue operating this property as a mobile home park and/or taking it to market on the basis of a mobile home park and not a development opportunity. You will notice that the value of this park is a relatively low \$23,000 per zoned lot. We believe the reason is due to the lack of market acceptance for smaller dense townhome units in Thurston County which are reflected in relatively low sales prices.

EXHIBIT NO. 4 Date 2/15/10
Deposition Of Robert Eichler
CONNIE CHURCH, Court Reporter

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SUMMARY:

Tumwater

RESIDUAL LAND VALUE CALCULATION

Gross Land Area	11.73 acres	510,959 square feet	
Net Developable Land Area	9.03 acres	393,438 square feet	77%
# of Lots	184 lots (at 14/acre)	Zoning: Multi-Family Medium Density Residential 9-15 du/acre	
Lot sizes	2,396 square feet	393,438 of lot sf	
# of months for Preliminary Plat Approval	18 months		
# of months for Final Plat Approval	18 months		

AS-IS VALUE

Land Value As-Is	\$ 3,707,207	\$ 22,575 per lot	\$9.42 per land square foot
Cost of Sales	7% \$ (259,504)	\$ (1,580) per lot	(\$0.66) per land square foot
Original Cost	\$ 3,447,703	\$ 20,994 per lot	\$8.76 per land square foot
Profit	\$ (0)	\$ (0) per lot	
	\$ 3,447,702	\$ 20,994 per lot	

PAPER PLAT VALUE

Land Value As-Is	\$3,707,207	\$ 22,575 per lot	\$9.42 per land square foot
Plus Pre Plat Cost Including Profit	\$2,233,997	\$ 13,604 per lot	\$5.68 per land square foot
Paper Plat Value including Cost & Profit	\$5,941,204	\$ 36,178 per lot	\$15.10 per land square foot
Cost of Sales	7% (\$415,884)	\$ (2,532) per lot	(\$1.06) per land square foot
Paper Plat Value including Cost	\$5,525,320	\$ 33,646 per lot	\$14.04 per land square foot
Cost of Preliminary Plat	(\$862,950)	\$ (5,255) per lot	
Paper Plat Value Net of Cost but incl. Profit	\$4,662,370	\$ 28,391 per lot	
Value increase over As-Is	\$1,214,667	\$ 7,397 per lot	\$3.09 per land square foot
Cash on cash return	141%		

FINAL PLAT VALUE

Pre Plat Value Before Sales Costs	\$ 5,941,204	\$36,178 per lot	\$15.10 per land square foot
Plus Final Plat Cost & Profit	\$ 7,196,396	\$43,822 per lot	\$18.29 per land square foot
Final Plat Value Before Sales Costs	\$ 13,137,600	\$80,000 per lot	\$33.39 per land square foot
Cost of Sales	7% \$ (919,632)	\$ (5,600) per lot	(\$2.34) per land square foot
Final Plat Value including Cost	\$ 12,217,968	\$74,400 per lot	\$31.05 per land square foot
Cost of Final Plat	\$ (6,841,247)	(\$41,650) per lot	
Final Plat Value Net of Cost but incl. Profit	\$ 5,376,721	\$32,741 per lot	
Value increase over Paper Plat	\$ 714,351	\$4,350 per lot	\$1.82 per land square foot
Cash-on-cash return (before tax)	10%		

NPV Turnwater RESIDUAL LAND VALUE CALCULATION			
Gross Land Area	11.73 acres	510,959 square feet	
Net Developable Land Area	9.03 acres	393,438 square feet	
# of Lots	164 lots		77%
Lot sizes	2396 square feet	393,438 of lot sf	
# of months for Preliminary Plat Approval	18 months		
# of months for Final Plat Approval	18 months		
Land Purchase	\$0	\$0 per unit land cost	
Sales Price Per Home	\$225,000	86% of Final Plat Value	
Sales Price (Final Plat Value)	\$80,000	per lot	
Absorption Period	3 years		
Inflation	4%	per year	
Cost of Sales	7%		
Permitting Costs (excludes profit)	\$ 862,950	\$ 5,255	
Development Costs (excludes profit)	\$ 7,704,197	\$ 46,914	
	\$ 8,567,147	\$ 52,169 per lot cost	

	Year	2006	2007	2008	TOTAL
Inflation Factor		100%	104%	108%	
Lot Development Rate		33%	33%	33%	100%
% of Lot Sales		0%	50%	50%	100%
# of Lots Sold		0	82	82	164
Gross Sales Price Per Lot		\$80,000	\$83,200	\$86,528	
Total Gross Sales Per Year		\$ -	\$ 6,822,400	\$ 7,095,296	\$ 13,917,696
Less Cost of Sales		\$ -	\$ (477,568)	\$ (496,671)	
Net Sales		\$ -	\$ 6,344,832	\$ 6,598,625	\$ 12,943,457
Land Cost		\$ (0)	\$ 0	\$ 0	\$ (0)
Permitting Costs		\$ (862,950)	\$ 0	\$ 0	\$ (862,950)
Development Costs		\$ (2,568,065)	\$ (2,670,788)	\$ (2,773,511)	\$ (8,012,364)
NET OPERATING INCOME		\$ (3,431,015)	\$ 3,674,044	\$ 3,825,115	
NPV	6%	\$3,244,719			
IRR	72%				

Turnwater
RESIDUAL LAND VALUE CALCULATION

Gross Land Area	11.73 acres	510,959 square feet	
Net Developable Land Area	9.03 acres	393,438 square feet	77%
# of Lots	164 lots		
Lot sizes	2396 square feet	393,438 of lot sf (based on Net Developable)	
# of months for Preliminary Plat Approval	18 months		
# of months for Final Plat Approval	18 months		

Description	Quantity	Unit	Cost/Unit	Total	Notes	Cost/Lot
HARD COSTS						
Demo bldgs / Dispose junk & concrete	1	each	\$ 20,000	\$ 20,000		\$ 122
Asbestos removal	1	each	\$ 15,000	\$ 15,000		\$ 91
Asphalt removal (pulverize and use for fill)	4,000	tons	\$ 13	\$ 52,000		\$ 317
Clear 50 trees	9.0	ac	\$ 400	\$ 3,613		\$ 22
Erosion control	164	lots	\$ 800	\$ 131,376		\$ 800
Grading import	50,000	cy	\$ 8	\$ 400,000		\$ 2,436
Production screened topsoil	5,000	cy	\$ 8	\$ 40,000		\$ 244
Rockerries	10,000	sf	\$ 2	\$ 20,000		\$ 122
Sanitary sewer	5,000	lf	\$ 40	\$ 200,000		\$ 1,218
Force main	2,000	lf	\$ 12	\$ 24,000		\$ 146
Lift station	1	lump sum	\$ 200,000	\$ 200,000		\$ 1,218
Offsite storm	1,000	lf	\$ 25	\$ 25,000		\$ 152
Offsite water	1,000	lf	\$ 58	\$ 58,000		\$ 353
Offsite paving	1,000	lf	\$ 180	\$ 180,000		\$ 1,096
Underground / Overhead - fiber	1,000	lf	\$ 200	\$ 200,000		\$ 1,218
Offsite street lights	10	each	\$ 6,000	\$ 60,000		\$ 365
Storm drainage	5000	lf	\$ 40	\$ 200,000		\$ 1,218
Lot drainage system	5000	lf	\$ 11	\$ 55,000		\$ 335
Water system	5000	lf	\$ 40	\$ 200,000		\$ 1,218
Trench import	12,500	tons	\$ 10	\$ 125,000		\$ 761
Flexible fittings	1	lump sum	\$ 20,000	\$ 20,000		\$ 122
Dynamic consolidation or preload	1	lump sum	\$ 120,000	\$ 120,000		\$ 731
Curbs and gutters	5,000	lf	\$ 25	\$ 125,000		\$ 761
Onsite base and pave	5,000	lf	\$ 65	\$ 325,000		\$ 1,979
Dry utilities trenching	8,500	lf	\$ 15	\$ 127,500		\$ 776
Sidewalks	5,000	lf	\$ 22	\$ 110,000		\$ 670
Boxes	20	each	\$ 2,000	\$ 40,000		\$ 244
Landscaping common areas	1	lump sum	\$ 200,000	\$ 200,000		\$ 1,218
Wetland/creek mitigation	1	lump sum	\$ 40,000	\$ 40,000		\$ 244
Box culvert(s)	0	each	\$ 18,000	\$ -		\$ -
Geotech piling: pin piles	0	lots	\$ 35,000	\$ -		\$ -
Entry monument	1	lump sum	\$ 100,000	\$ 100,000		\$ 609
On-site Street lights	20	each	\$ 4,000	\$ 80,000		\$ 487
Plat fencing	2,500	lf	\$ 22	\$ 55,000		\$ 335
Subtotal of hard construction costs					\$ 3,551,489	\$ 21,626
Contingency (as % of hard costs)	15%			\$ 532,723	\$ 532,723	\$ 3,244
SOFT COSTS, FEES, ETC.						
Preliminary Plat Approval						
Preliminary Engineering						
Civil	9 1/2 PP months		\$ 10,000	\$ 90,000		\$ 548
Traffic	9 1/2 PP months		\$ 5,000	\$ 45,000		\$ 274
Wetlands/Wildlife	9 1/2 PP months		\$ 3,000	\$ 27,000		\$ 164
Hydraulic/Flood	9 1/2 PP months		\$ -	\$ -		\$ -
Fisheries	9 1/2 PP months		\$ -	\$ -		\$ -
Pre Plat App Fees	1 lump sum		\$ 15,000	\$ 15,000		\$ 91
City Review Fees	9 1/2 PP months		\$ 3,500	\$ 31,500		\$ 192
SEPA Review	1 lump sum		\$ 1,200	\$ 1,200		\$ 7
EIS Fees	1 lump sum		\$ 200,000	\$ 200,000		\$ 1,218
Development Management Fee (Pre Plat)	18 Pre Plat months		\$ 10,000	\$ 180,000		\$ 1,096
Public Relations	9 Pre Plat months		\$ 5,000	\$ 45,000		\$ 274
Legal Fees (Pre Plat)	18 Pre Plat months		\$ 5,000	\$ 90,000		\$ 548
Marketing of Pre Plat Fee	4.5 1/4 PP months		\$ 12,500	\$ 56,250		\$ 343
Subtotal Preliminary Plat Approval Fees			\$ 780,950			\$ 4,756
Bank Charges, Loan Fee, Appraisal Fee, Etc.	1% PP Fees/PP Period		\$ 1,171,425	\$ 11,714		
Interest Paid on Loan for Pre Plat Approval	6% PP Fees/PP Period		\$ 1,171,425	\$ 70,286		
Developer's Profit on Preliminary Plat	30% PP+Bank+i+Land		\$ 4,570,157	\$ 1,371,047		
					\$ 2,233,997	\$ 13,604
Final Plat Approval						
Final Engineering						
Reaction Testing	164 lots		\$ 2,000	\$ 328,440		\$ 2,000
Key and Final Plat	3,500 lf		\$ 18	\$ 63,000		\$ 384
	164.22 lots		\$ 1,500	\$ 246,330		\$ 1,500
Public Works Plan Review & Inspection Fees	\$ 1,775,744 1/2 const value		3%	\$ 53,272		\$ 324
Final Plat Review Fees: City	1 lump sum		\$ 20,000	\$ 20,000		\$ 122
Fire fee	164 lot		\$ 400	\$ 65,688		\$ 400
Traffic fee	164 lot		\$ 933	\$ 153,217		\$ 933

Parks fee	164 lot	\$	400	\$	65,688	\$	400
School fee	164 lot	\$	\$0	\$	-	\$	-
Stormwater development charges	164 lot	\$	800	\$	131,376	\$	800
Waste water fee	164 lot	\$	900	\$	147,798	\$	900
Sewer latecomers frontage fee	0 lf	\$	45	\$	-	\$	-
Water system development charge	164 each	\$	1,525	\$	250,436	\$	1,525
Water latecomers charges	1,500 lf	\$	-	\$	-	\$	-
Grading license fee	1 each	\$	2,000	\$	2,000	\$	12
Bond fees	164 lots	\$	1,100	\$	180,642	\$	1,100
Development Management Fee	10% Hard Costs	\$	3,551,489	\$	355,149	\$	2,163
Legal Fees	18 Final Plat Months	\$	2,500	\$	45,000	\$	274
Developer's Profit	10% Hard Costs	\$	3,551,489	\$	355,149	\$	2,163

Other Soft Costs

Real Estate Taxes	18 Final Plat Months	\$	126,122	\$	189,183	\$	1,152
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FINANCING

Interest	2% %*(FP Time)	\$	19,706,400	\$	394,128	\$	2,400
Loan Fee & Closing Costs	0.50% %	\$	13,137,600	\$	65,688	\$	400

Building Lot Development Costs	164 lots	\$	(57,425)	\$	(9,430,393)	\$	(57,425)
Final Plat / Retail Land Value	164 lots	\$	\$80,000	\$	\$13,137,600	\$	\$80,000
Raw Land Value AS-IS - Cost/lot	164 lots	\$	22,575	\$	3,707,207	\$	22,575

AS-IS VALUE

Land Value As-Is

Cost of Sales

Original Cost

Profit

\$	3,707,207	\$	22,575	per lot	\$7.26	per land square foot
7%	\$ (259,504)	\$	(1,580)	per lot	(\$0.51)	per land square foot
\$	3,447,703	\$	20,994	per lot	\$6.75	per land square foot
\$	(0)	\$	(0)	per lot		
\$	3,447,702	\$	20,994	per lot		

PAPER PLAT VALUE

Land Value As-Is

Plus Pre Plat Cost Including Profit

Paper Plat Value including Cost & Profit

Cost of Sales

Paper Plat Value including Cost

Cost of Preliminary Plat

Paper Plat Value Net of Cost but incl. Profit

Value increase over As-Is

Cash on cash return

\$	3,707,207	\$	22,575	per lot	\$7.26	per land square foot
\$	2,233,997	\$	13,604	per lot	\$4.37	per land square foot
\$	5,941,204	\$	36,178	per lot	\$11.63	per land square foot
7%	\$ (415,884)	\$	(2,532)	per lot	(\$0.81)	per land square foot
\$	5,525,320	\$	33,646	per lot	\$10.81	per land square foot
\$	(862,950)	\$	(5,255)	per lot		
\$	4,662,370	\$	28,391	per lot		
\$	1,214,657	\$	7,397	per lot	\$2.38	per land square foot
	141%					

FINAL PLAT VALUE

Pre Plat Value Before Sales Costs

Plus Final Plat Cost & Profit

Final Plat Value Before Sales Costs

Cost of Sales

Final Plat Value including Cost

Cost of Final Plat

Final Plat Value Net of Cost but incl. Profit

Value increase over Paper Plat

Cash-on-cash return (before tax)

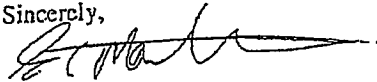
\$	5,941,204	\$	36,178	per lot	\$11.63	per land square foot
\$	7,196,396	\$	43,822	per lot	\$14.08	per land square foot
\$	13,137,600	\$	80,000	per lot	\$25.71	per land square foot
7%	\$ (919,632)	\$	(5,600)	per lot	(\$1.80)	per land square foot
\$	12,217,968	\$	74,400	per lot	\$23.91	per land square foot
\$	(6,841,247)	\$	(41,659)	per lot		
\$	5,376,721	\$	32,741	per lot		
\$	714,351	\$	4,350	per lot	\$1.40	per land square foot
	10%					

Disclaimer

Please note that Washington law generally prohibits any person except a licensed appraiser from providing an estimate of value for real property. One exception to this prohibition is a broker's opinion of value to be utilized to provide acquisition and disposition advice (See RCW 18.140.020(1)). The estimates provided in this report are offered in the context of a broker's opinion of value.

Thank you again for the opportunity to assist you with your various real estate holdings. Please let us know if you have any further questions.

Sincerely,



Campbell Mathewson
Vice President & Designated Broker

CRE 4485v1 28149-28149-1
Seattle